



**Minutes of the Commission Meeting  
Capitol Building – Room 412, 2005  
April 29, 2005**

The April meeting of the South Dakota Lottery Commission was called to order by Chairman Tom Leckey at 10:30 a.m. on April 29, 2005.

**MEMBERS PRESENT:** Tom Leckey, Mike Braley, Susan Shay Brugger, Duane Schmautz, Kory Menken, Dick Werner and Lance Russell.

**SUPPORT STAFF PRESENT:** Norm Lingle, Mike Mueller, Joe Willingham, Jack Magee, Deb Reese and Mary Jo Bibby.

**APPROVAL OF THE MINUTES:**

A motion was made by Kory Menken and seconded by Mike Braley to approve the March 11, 2005 minutes. Motion carried.

**RULES HEARING:**

Jack Magee presided over the hearing and stated that the proposed rules ARSD 48:02:07:09 through 48:02:07:11 and ARSD 48:02:08:01.01 have been reviewed by the Legislative Research Council.

Mike Mueller stated that the proposed rules establish a process for manufacturers to request that a video lottery machine be declared obsolete and for the commission to act on such a request. The rules also allow operators to purchase most associated equipment for video lottery machines on the open market.

He also stated that action taken today will not declare the VLC 8700 obsolete and that should the request be made and the commission were to declare the VLC 8700 obsolete, it would not mean that all of the machines will be abruptly replaced.

Mueller reviewed the reason the Lottery is proposing these rules, including Anchor Gaming's letter to operators informing them it would no longer support the VLC 8700 because of parts inavailability. Current rules require licensees to provide associated equipment for machines in perpetuity, but the Lottery recognizes that the machines' parts may not be available forever. The proposed rules establish a formal process to consider and act on an obsolescence request. That process mirrors the Lottery's efforts over the past year regarding the VLC 8700.

Rule 48:02:07:09 requires the manufacturer to request in writing and provide justification that its machine be declared obsolete. The request cannot be made until seven years after initial approval of the machine.

Rule 48:02:07:10 states that the commission shall utilize an independent technical expert to verify the justification and that the manufacturer shall pay for the costs of the testing and analysis.

Rule 48:02:07:11 allows the commission, after a public hearing, to declare a machine obsolete. Licensees would no longer be required to maintain an inventory of associated equipment for the obsolete machine.

Mueller stated that the proposed rules recognize that parts may not be available forever, and relieves licensees of an unrealistic requirement, protects the Lottery, operators and establishments from arbitrary claims of obsolescence and provides certainty of a defined period of time that associated equipment must be provided.

The rules also allows the purchase of most associated equipment from sources not otherwise licensed by the Lottery, allowing operators to purchase associated equipment for the 8700 and any other approved machine at the most cost-efficient means from a much wider market.

Rule 48:02:08:01.01 requires the lottery to maintain a list of parts critical to the integrity, security and administration of the game. These parts, designed and manufactured by the manufacturer, are the most important to the game. Any parts not on the list may be acquired from sources not otherwise licensed by the lottery. The open market parts must meet all other requirements in law and rule. They must be the exact same part already tested and approved. Service must be done by certified technicians. Only manufacturers can submit machine change requests. Any other requirement in law or rule regarding what's in or on the machine must be met.

Mueller stated that this rule maintains security, integrity and administration of the game and contributes to cost-effective maintenance and lifespan of the VLC 8700.

Written comments were submitted by IGT, Music and Vending Association, South Dakota Association of Video Lottery Establishments, R & B Vending and Jeff Carroll and were distributed to the commission.

JoDean Joy, representing the Citizens United for Gambling Reform, testified that the rules adoption should be delayed until after the November 2006 elections, when an expected ballot measure will be voted on.

Bob Hartford, representing the Music & Vending Association, testified in favor of adopting the rules. He inquired about the form and style changes and critical parts list.

Karen Assman, representing the South Dakota Association of Video Lottery Establishments, testified that her association supports the proposed rules.

Joy asked if all testimony was available to the public.

At 10:58 public testimony on the hearing was closed.

Commissioner Schmautz asked if the critical parts list would be updated.

Mike Braley moved and Duane Schmautz seconded the motion to adopt the rules. Motion carried.

**CONTESTED CASE HEARING:**

Hillary Brady, hearing examiner, presided in the matter of Jeff Dahl, dba Castlewood Steak House. Mr. Dahl was not in attendance. He informed the commission by phone that he would not be attending the hearing and that he would not ask for a continuance.

Deb Reese, Director of Security and Video Lottery Operations, testified that Dahl made application for a Video Lottery Establishment FY05 License Renewal(Exhibit 3) on March 27, 2005. Reese presented a letter (Exhibit 4) from the Lottery to Dahl stating that his license would not be renewed because of delinquent sales taxes due to the state. Reese presented a letter (Exhibit 6) from Dahl stating that his delinquent taxes would be paid by April 29<sup>th</sup> and that he would attend his hearing.

Jason Evans, Revenue Agent for the Department of Revenue and Regulation, testified that Dahl continues to be delinquent in his payment of taxes in the amount of \$9,163.67. Evans presented Department of Revenue and Regulation documentation of taxes owned by Dahl(Exhibit 2).

At 11:12, Brady announced that Dahl was still not present.

Jack Magee, Attorney for the Department of Revenue and Regulation, cited §42-7A-13(4) of the South Dakota Codified Laws, requiring a lottery retailer to be current in payment of all taxes, interest and penalties owed to the State of South Dakota and ARSD 48:02:04:21, granting the Commission the authority to suspend, revoke, or deny renewal of a license for any violation of or noncompliance with the provisions of SDCL 42-7A.

Mike Braley moved and Duane Schmautz seconded the motion to deny Dahl's license renewal application.

**SALES/MARKETING REPORT:**

Director of Sales Joe Willingham reported on the following:

PRODUCT UPDATE:

Video lottery establishment numbers are up 1.8 percent. Terminal numbers are up 2.3 percent. Net machine income is up 3.8 percent.

Instant sales are up 6.7 percent due to aggressive efforts by sales representatives. Lucky Day is currently the top seller. The \$100,000 Taxes Paid game will be released in July. Bewitched, Beat the Heat, Cash Splash and Silver 7's will be released in May.

Recent instant winners were announced.

A Request for Proposal for instant ticket printing has been issued and five vendors have made inquiries.

On-line sales are down 16.1 percent overall. Powerball sales are down 27 percent from FY04. Wild Card sales are up 11.8 percent. Hot Lotto sales are up 35 percent. Dakota Cash sales are up 20.1 percent.

Willingham announced recent lotto winners.

New jackpot signs are currently being installed.

Testing for the new on-line terminals begins May 9 and installation will be completed by July 1. Twenty-four new retailers are being added to the network.

#### REVENUE PROJECTIONS FOR FY05:

Video lottery revenue projections for FY05 are \$109.2 million, an increase of 1.9 percent over last year. Instant revenues for FY05 are expected to be \$3.4 million, an increase of 2.1 percent over last year. Lotto revenues are expected to be \$3.6 million, a decrease of 13.7 percent over last year.

#### **PUBLIC RELATIONS AND ADVERTISING REPORT:**

Director of Public Relations and Advertising Mike Mueller reported on the following:

##### AD CAMPAIGNS:

April ads included 30 second television and radio spots for the Lucky Day game, Wild Card jackpot alerts, print and television ads featuring \$245,550 Dakota Cash jackpot winners Darold and Diane Borgheinck.

Lotto game awareness television ads will run from April to July

Radio and television ads for the Bewitched game will begin at the end of May. Summer advertisements will include Beat the Heat, Cash Splash and \$100,000 Taxes Paid.

##### PUBLIC RELATIONS:

A news release was issued when the Dakota Cash jackpot was hit and also when the winners came forward.

Media inquiries included the new jackpot signs, Powerball sales, problem gambling, video lottery and Lottery jobs.

#### **VIDEO/ADMINISTRATIVE REPORT:**

Director of Security and Video Lottery Operations Deb Reese reported on the following:

The Multi-State Lottery Association minimum security standards compliance check will be held the week of June 6, 2005.

The IGT Game King game is in the final testing phase.

The Lottery visited Spielo's manufacturing plant and anticipates the manufacturer's license to be issued on July 1, 2005.

**POWERBALL MATRIX CHANGE:**

Norm Lingle explained the proposed change in the Powerball matrix. Six jurisdictions have recently joined the game. Players will select five numbers from a field of 55 and one number from a field of 42. Overall odds will be 1:36.6. The new game will have larger starting jackpots, a \$200,000 second-level prize and a \$10,000 third-level prize. Implementation is scheduled for Aug. 28, 2005. Rules will be proposed at the next Commission meeting. Scientific Games International will test new software for the game

**ADJOURNMENT:**

Kory Menken moved and Duane Schmautz seconded the motion to adjourn. Motion carried and at 11:50 the meeting was adjourned.

**NEXT COMMISSION MEETING:**

The next commission meeting is scheduled for June 24, 2005 at 10:30 in room 412 of the State Capitol.