



# FUTURE OF LOTTERY COURIER SERVICES:

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## Identifying Opportunities, Challenges

Prepared for Jackpocket

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## Executive Summary

Lottery courier services, which allow consumers to order lottery tickets digitally through third parties, are growing in popularity, and are proving to advance the interest of lotteries by:

- Reaching younger demographics, and generally attracting attention from adults who are not otherwise playing the lottery,
- Offering a more convenient means of playing the lottery by leveraging the advantages of the Internet,
- Supplementing state lottery operating budgets through advertising support including, but not limited to:
  - Advertising current jackpot amounts
  - Announcing the release of new lottery instant tickets
  - Providing a lottery consumer, the ability to instantly find the nearest lottery retailer.

Courier services face challenges that include opposition from retailers and other stakeholders, including concerns expressed by legislators that they lack sufficient control over their operations.

As courier services evolve into a critical element of the lottery industry, the over-arching policy goals are for lotteries to:

- Provide a necessary level of public confidence in the integrity of courier operations
- Create and require courier services to operate in accordance with standardized practices to ensure that all participants have the experience, financial wherewithal, and operational integrity to operate legally

With those goals in mind, best practices for lotteries to consider when working with courier services should, at a minimum, include:

- Adopt effective “know your customer” (“KYC”) practices, including age, identity and geolocation verification.
- Require that couriers:
  - Order and scan every ticket (front and back) and send the scanned ticket to the customer within a reasonably designated time.
  - Store each physical draw game ticket ordered on behalf of a customer securely in a safe or vault with a minimum fire rating of Class 150-1 Hour issued by Underwriter Laboratories Inc., or such equivalent rating approved by the commission. The premises housing such safe or vault shall be protected by a burglary alarm system with 24-hour central station monitoring.
  - Submit all gaming platforms such as random number generators, identity of the customer, and geolocation services to be tested by an independent gaming laboratory for approval.

- Safeguard the personal information of the customer, including credit, debit, or any other banking information.
- Provide a process to redeem a winning ticket which not only satisfies the customer but is also transparent to the customer.
- Provide retention requirements of tickets until a time following the applicable claim period.

States such as New York and New Jersey have also taken the additional step of requiring that couriers be licensed or registered in manners that are akin to the licensing process for gaming operators, in which the applicants are required to demonstrate that they can be held to a standard of good character, controls and customer protection. Whether lotteries formally adopt such practices or not, the goals are universal. Lotteries need the ability to reject and disassociate from couriers that have flouted rules regarding the illegal sale of tickets to foreign jurisdictions, or that simply do not maintain sufficient controls regarding the sale of tickets to minors or with respect to any of the many other consumer protection policies and procedures historically embedded in traditional lottery transactions.

Such practices are not new to lotteries, which already maintain rules that allow them to cut off retailers that violate such policies. Other practices for consideration by lotteries would include:

- Lotteries should provide significant oversight of courier operations, including reviewing, approving and monitoring their internal-control processes, as well as overseeing such issues as responsible-gaming, anti-money laundering (“AML”), and “know your customer” (KYC) practices.
- Lotteries should develop and adhere to standing policies that they expect immediate, complete responses from their courier services when issues arise; i.e., problems must be solved and addressed to the satisfaction of all parties as quickly and completely as possible.
- Lotteries should adopt practices to notify the public – and most particularly the lottery players who raise issues of concern – that the courier services are private entities, separate from the lottery.
- As courier services will need some level of review and oversight on a daily or near-daily basis, at least one full-time professional at the lottery needs to be assigned to courier-oversight duty.
- As lotteries need to maintain and enhance their respective brands, they need to adopt a combination of coordination with – and some level of oversight of – the courier services’ independent marketing efforts.
- Marketing efforts can be a two-way street. If the courier services can offer a fresh perspective by marketing the purchase of lottery products as a more innovative, fun and digitally-savvy experience, lotteries may then decide to deploy a similar marketing perspective within their larger marketing strategies.
- Prior to introducing any new marketing campaigns, however, couriers should notify and work with their host lotteries in advance to obtain the lottery’s approval and buy-in.
- As courier services are well-positioned to work with lottery retailers, they can reduce cannibalization concerns and make it easier for states to adopt other significant changes, such as i lottery.

- Data provided by Jackpocket demonstrates that courier services are already enjoying significant penetration of the draw-game market, showing that the share of multi-state draw games, particularly when the jackpot rises, can reach double digits. That growth can be expected to continue as couriers gain greater awareness as well as confidence from the public and from state lotteries.

# 1. Background

The idea of implementing a service in which a third party takes on the role of ordering lottery tickets – popularly known as a lottery courier service – has been around in one form or another since the establishment of the internet. As far back as the 1980s, entrepreneurs were using new technology to purchase tickets in one state and transport them to players in another state, in exchange for small fees.

To get around federal laws barring the use of the mail for gambling purposes, the tickets would be transported by automobile, or – as one entrepreneur put it at the time – “We predict enough growth that we’ll probably operate somewhat like Federal Express,” referring to the former name of FedEx.<sup>1</sup> But entrepreneurs were not the only ones focused on this opportunity. So were various state attorneys general and other law-enforcement entities who challenged the legality of such efforts.

While lottery couriers have operated in the United States since the early 1980s, this industry is still in the early stages of acceptance by US lotteries. Previously, a domestic courier would set up business without the knowledge of the local lottery and would take orders from anywhere in the world. When it became evident that a courier was operating in a particular state, the state lottery director would often elicit the assistance of the state attorney general to take the necessary action to close the courier business. These early couriers would openly advertise and accept online orders from individuals located in the United States and abroad.

These early couriers recognized that Powerball and Mega Millions were the most popular tickets to be ordered online, both within the US and internationally. They were popular internationally because neither of those games has ever been legally available outside of the United States. They were popular within the United States because until 2010, every US lottery could only offer one of those games, not both.<sup>2</sup> Consequently, players in a state that only offered Mega Millions would use a courier to order a Powerball ticket, and vice versa.

Every lottery – through its laws, rules, regulations and procedures – is required to take necessary steps to protect the integrity of its games. The industry’s core business model rests on the premise that, if lottery players were ever given a reason to believe the games were not fair, they would stop playing the games. Because these early couriers were unregulated – and often operating without the lotteries’ knowledge and consequently without any oversight – the lottery viewed these couriers as a threat to the industry’s integrity.

Because both Powerball and Mega Millions have extremely long odds of winning a top-tier prize, lotteries suspected that many couriers were not actually buying the tickets ordered; i.e., the thought was that couriers would accept a player’s order but then never actually order a ticket. If the player won a small or low-tier prize, the courier would simply pay the player directly, using the courier’s own funds. If, however, a courier customer won the jackpot or even another top or mid-tier prize and did not receive

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<sup>1</sup> Gerard M. Shields, “Lottery Couriers Say They Have a Sure Bet,” *Morning Call*, March 2, 1989. <https://www.mcall.com/news/mc-xpm-1989-03-02-2674857-story.html>

<sup>2</sup> <https://www.worldlottery.net/mega-power-lottery> (accessed September 9, 2022)

the prize because a ticket had not been ordered by the courier, the result would be the worst-case scenario for the industry's integrity.

During the past few years, the lottery courier service business model has, for the most part, become more sophisticated, transparent and technologically savvy, all of which has helped address the previous concerns of the lottery industry.

Within the past two years, the legislatures in New Jersey and New York passed legislation requiring lottery couriers to be licensed before offering courier services. Additional lottery jurisdictions, while not requiring a lottery courier license, currently allow lottery draw game tickets ordered through a lottery courier service, including:

- Arizona
- Arkansas
- Colorado
- Idaho
- Indiana
- Massachusetts
- Minnesota
- Montana
- New Hampshire
- New Jersey
- New Mexico
- New York
- Ohio
- Oregon
- Texas
- Washington D.C.
- West Virginia<sup>3</sup>

## A. Defining 'Courier Service'

The current concept of a lottery courier service took shape and gained recognition a decade ago, as various states began looking for ways to leverage the growing popularity and usage of the internet to increase lottery sales.

LaFleur's offered a succinct definition:

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<sup>3</sup> Location Smart, "What are Lottery Courier Services," June 19, 2021.

<https://www.locationsmart.com/company/news/what-are-lottery-courier-services>

Wes Burns, "Jackpocket Review," Betting USA, 2023. <https://www.bettingusa.com/reviews/jackpocket/Lotto.com>, <https://www.lotto.com>

22 WWLP.Com, "Lottery couriers operating "outside the law," Colin A. Young, Aug. 31, 2021.

<https://www.wwlp.com/news/massachusetts/lottery-couriers-operating-outside-the-law/>

“New” technology (even if it is starting to become old technology in other sectors) is difficult to adopt in the lottery world due to endless layers of bureaucracy. The best example is the internet. Legislators in most states are wary of letting lotteries sell online despite it being an essential channel. This gap in what lottery players expect and what lotteries can offer has given tech companies the opportunity to find its way into the repressed industry. The result could dynamically shift the landscape of online lottery forever.

Entrepreneurs’ answer to the gap between lottery capabilities and consumer expectations is simple. While the lottery cannot sell tickets directly to players online, companies could purchase tickets on behalf of players. They then convey the numbers to the player through the internet and hand the ticket over if the player won. There is enough legal leeway depending on state laws that allows them room to operate. This operation is dubbed a courier service.<sup>4</sup>

Charles McIntyre, the New Hampshire Lottery Executive Director and president of the North American Association of State and Provincial Lotteries (“NASPL”), offered a more succinct definition in 2018: “I think they just monetized the office pool mentality.”<sup>5</sup>

The LaFleur’s reference to the wariness of state legislators has been very real and remains so in many instances. Rules vary from state to state as to whether authorization exists at the lottery, executive or legislative levels. For example, while New Hampshire was an early adopter of a courier service, it did not need to do so through the state legislative process, allowing the lottery to implement the service.

Today, lottery couriers offer their services through a mobile app, similar to home-delivery services such as Uber Eats, Grub Hub or Instacart. As geolocation provider LocationSmart puts it: “A Lottery Courier is like an App-Powered Goods or Food Delivery Service that will go and grab some grocery essentials or dinner on your behalf, but instead, they are buying you lottery tickets.”<sup>6</sup>

Also like these other services, the lottery customer creates an account and establishes an e-wallet for making online lottery ticket orders and for receiving deposits of winnings. Once the player has established their account and e-wallet, the lottery courier will confirm all the customer’s information through an ID verification process. During this ID verification, special attention is given to confirming the age of the account holder to guarantee they are not a minor and legally allowed to purchase lottery products in that state.<sup>7</sup>

Once the player’s account is completed and verified by the lottery courier, the player may then begin to make lottery orders from within the jurisdiction of registration. In February 2019, the US Department of Justice overruled its previous 2011 opinion regarding the Federal Wire Act, which ruled that only interstate sports betting was illegal. In its 2019 opinion, the Justice Department ruled that “... all forms of online gambling involving interstate transactions are not prohibited.”<sup>8</sup> Consequently, a customer

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<sup>4</sup> Byron LaFleur, “Couriers: The Shifting Landscape of Online Lottery,” April 5, 2018. <https://lafleurs.com/magazine-feature/2018/04/05/couriers-the-shifting-landscape-of-online-lottery/>

<sup>5</sup> Ibid.

<sup>6</sup> <https://www.locationsmart.com/company/news/what-are-lottery-courier-services> (accessed September 9, 2022)

<sup>7</sup> Byron LaFleur, “Couriers: The Shifting Landscape of Online Lottery,” April 5, 2018. <https://lafleurs.com/magazine-feature/2018/04/05/couriers-the-shifting-landscape-of-online-lottery/>

<sup>8</sup> Tamara Vulcinic, “US Government Officially Bans Online Interstate Gaming,” Gaming Law & Society News, February 13, 2019. <https://www.realmoneyaction.com/us-government-officially-bans-online-interstate-gambling/>



can only order the lottery tickets of that state or jurisdiction in which they registered, and they must be physically located within that state or Jurisdiction when placing the order through the courier.<sup>9</sup>

The leading lottery couriers' platforms utilize the same geolocation programs as those contained in ilottery platforms to locate and track players. For example, the lottery courier Jackpocket uses two-factor geo-verification via the GPS on the phone, as opposed to an IP address. This geo-verification program is certified by a recognized testing laboratory and, in New Jersey, by the New Jersey Division of Gaming Enforcement.<sup>10</sup>

As soon as a player is confirmed to be within the lottery's home state, that player can use the lottery courier's app to order any of the lottery's draw games offered by the courier. The players may choose their own numbers or have the numbers generated by the lottery courier's random-number generator in the courier's platform. Like the geolocation program described above, the random-number generator is also tested by a state-approved testing lab.

As soon as the lottery courier receives the player's ticket order, the courier will order the ticket at a licensed lottery retailer and email a confirmation back to the customer. The courier then scans the front and back of the ticket in high-definition, watermarks the image with the customer's name, and sends the scanned copy back to the player. The player usually has this copy of their ordered ticket within minutes of placing the order. The actual ticket is then stored by the courier in a fireproof safe located on the courier's premises.

After the lottery drawing has occurred, if the player has a winning ticket and the amount of the win is \$600 or less, the funds are immediately transferred into the player's e-wallet. If the win is greater than \$600, the lottery courier will send the winning ticket to the player, together with the necessary forms for proper redemption with the lottery.<sup>11</sup>

Notably, by definition, a courier service knows the identity of the player. This not only protects the player, but also can also offer an important benefit to the state. All state lottery laws, to some degree, allow appropriate state and federal agencies to collect lottery winnings to satisfy any debts or garnishments from the winner. Qualifying debts could include unpaid child support or childcare, debts to a state agency, or unpaid taxes. The threshold amount of the lottery prize when such a deduction takes effect varies from state to state. For example, In Arizona such deductions may be made from a lottery prize of \$600 or greater, while in Georgia the threshold is a \$5,000 prize.<sup>12</sup> In an anonymous retail transaction, a lottery winner could have the ticket claimed by a friend or family member to avoid having to satisfy their debts, but this is not an option for a winner of a ticket procured through a lottery courier.

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<sup>9</sup> Ibid

<sup>10</sup> "Regulators, Security, protection, and compliance," Jackpocket, Inc., 2021. <https://jackpocket.com/regulators/> (accessed September 25, 2022)

<sup>11</sup> Jackpocket Help Center, "How does Jackpocket work?" August 20, 2019. <https://support.jackpocket.com/hc/en-us/articles/360034662273-How-does-Jackpocket-work->

<sup>12</sup> Manfred Sternberg, "Can Creditors Take Your Lottery Winnings? A Guide to Winners' Rights" Manfredlaw.com, January 24, 2017. <https://www.manfredlaw.com/can-creditors-take-lottery-winnings-guide-winners-rights/>

Moreover, lottery couriers' platforms have the capability to offer more options than can be provided by the state lotteries. These options can include:

- **Public Pools:** Large public pools where winnings from all tickets are split evenly among all players.
- **Private Pools:** A player can invite friends and family to participate in private pools, where any winnings are distributed among participants based on the number of tickets each ordered (i.e., the more tickets you order, the bigger your share of the prize pool).
- **Invite Friends to Private Pools:** After creating a private pool, customers can invite their friends via quick-share links.
- **Refer-a-Friend:** Users can refer-a-friend to earn money for every friend they refer who makes a deposit. Each friend also gets an amount just for being referred.
- **Auto Funding:** The auto-fund feature allows customers to automatically refill their accounts if their balance dips below a pre-selected amount.
- **Autoplay Subscriptions:** The autoplay feature allows users to order tickets for every drawing automatically. They can select the "autoplay" menu item from the app to set up a recurring subscription to any game. Customers can choose "quick pick" for random numbers or have the app select specific numbers each time. This feature works well in tandem with auto-funding to ensure users never miss a drawing. This autoplay feature may also include the option for the player to instruct the courier to order tickets at established jackpot levels, i.e., the player can tell the courier to order two tickets for every jackpot over \$300 million, then three tickets when the jackpot is over \$400 million, then five tickets when the jackpot is over \$500 million and so on until the jackpot is won.
- **Find a Retailer:** Customers can use a "find a retailer" tool to launch a map of all nearby ticket retailers for in-person purchases. All US Lotteries offer this feature.<sup>13</sup>

The largest impediments to the growth of courier services in recent years have been the following concerns:

- The concept of a courier service offers the risk of fraud and malfeasance, considering that the third parties ordering lottery tickets must actually purchase the tickets, and implement necessary controls to protect the players and the issuing lotteries while retaining scalability.
- Lottery retailers have expressed concerns that courier services would cannibalize retail sales by making ticket purchases more convenient for players, thus reducing foot traffic and sales of other products in retailer locations.

## B. Putting Challenges in Context

Many of the concerns regarding the adoption of courier services were crystallized during a discussion within the Massachusetts Lottery on the challenges that states must address when confronting this opportunity.

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<sup>13</sup> "Jackpocket Review," Betting USA, 2021. <https://www.bettingusa.com/reviews/jackpocket/>

During that discussion, Michael Sweeney, Executive Director of the Massachusetts Lottery, identified a core challenge, noting the need for lotteries to improve and update their laws and regulations, because existing policies and regulations “just don’t reflect the modern realities, particularly on the technology front.” Sweeney noted at the time that the adoption of courier services “is certainly one of those areas. And we just feel that it’s really ripe for potential abuse, potentially causing some negative reaction towards the Mass. Lottery – not because of anything we did do, but because of the action of these third-party private actors that may not be operating quite up to the standards that all of us would like ... There are other business entities out there again that are trying to do this in what I would term a good partnership way – good communication, good business practices – but they’re also looking for guidance from states including the commonwealth as to what exactly would the requirements be.”<sup>14</sup>

Additionally, the culture in many lotteries can be characterized as generally risk averse. As one lottery director noted, lottery directors generally expect to be punished when problems occur or when revenues decline, but they are not likely to be rewarded when they take risks that prove to be successful. Lottery couriers are actually in a position to assist lottery directors to increase revenues without having to address the normal political challenges involved in changes policies and procedures.

In the view of several lottery directors, the second tier of lottery personnel that report to their respective directors, including heads of security and general counsels, tend to be even more risk averse. A culture that is risk averse is less likely to adopt or consider new technologies, such as courier services. Other directors interviewed for this analysis note that many legislators tolerate lotteries but do not embrace them, and an absence of legislative support means that lawmakers are less likely to support new initiatives such as a courier service, and are less likely to authorize the necessary budget increases that might be required to increase staffing levels to monitor lotteries.

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<sup>14</sup> Colin A. Young, “Massachusetts Lottery says courier services operating ‘outside the law,’” State House News Service, August 31, 2021. <https://www.masslive.com/politics/2021/08/massachusetts-lottery-says-courier-services-operating-outside-the-law.html>

## 2. Courier Services: Demographic Analysis

Gallup polls have found that playing the lottery is the most popular form of gambling, showing that approximately half of all respondents had purchased a lottery ticket in the previous year.<sup>15</sup> The ability of lotteries to cast such a wide net is a key reason behind their success, yet lotteries – like other consumer-facing industries that rely on retail stores – fear being left behind as the demographics and buying habits of consumers evolve.

As far back as 2017, lotteries were already aware of the demographic challenges they were facing.

A report from Reuters that year noted:

- Only a third of Americans aged 18 to 29 said they played the lottery in the past year, compared with 61% for those aged 50 to 64, according to a 2016 Gallup survey.
- The rate for millennials fell from 39% in surveys conducted in 2003 and 2007, Gallup said. For all other age groups, the likelihood of playing went up over the past decade.
- “Most millennials don’t want to wait two days to see if they won the Powerball. They consume entertainment content just much faster than consumers did 20 years ago,” said Charles McIntyre, executive director of the New Hampshire Lottery. “We’re not broke, we’re just at the inflection point where a failure to change will have a steep decline over time.”<sup>16</sup>

Oregon Lottery Director Barry Pack told the Oregon House of Representatives Revenue Committee in 2017 that lotteries need to identify means of attracting younger players, who are “looking for skill-based games, they’re looking to play on their mobile devices. ... So, I think one of the future revenue risks is how do we stay current with the player base, and how do we reach out across broader demographics to attract a different set of players than may be playing now?”<sup>17</sup>

A survey conducted by the US Bureau of Labor Statistics noted that for the 12-month period ending June 2018, the average annual spend on lottery tickets was nearly \$70 per adult, but adults under 25 spent less than \$8, and for adults between 25-34, the average spend was slightly more than \$40.<sup>18</sup>

While disparities in income account for some of that differential, as the following chart shows, younger adults are simply not as attracted to retail lottery.

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<sup>15</sup> Zac Auter, “About Half of Americans Play State Lotteries,” July 22, 2016.

<https://news.gallup.com/poll/193874/half-americans-play-state-lotteries.aspx>

<sup>16</sup> Alex Dobuzinskis, “U.S. lottery operators worry as fewer millennials line up to play,” Reuters, February 10, 2017.

<https://www.reuters.com/article/uk-usa-lottery-feature-idUKKBN15P16K>

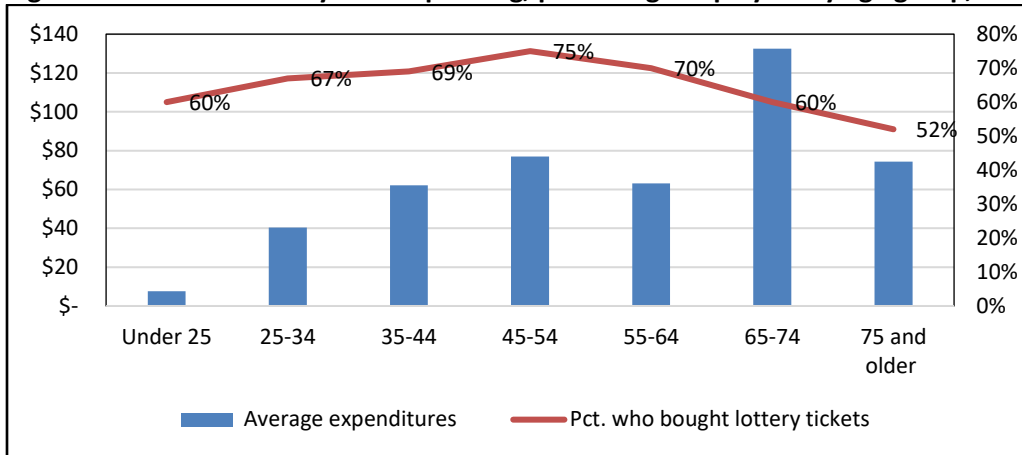
<sup>17</sup> Anna Marum, “The Oregon Lottery could be in trouble,” *The Oregonian*, February 15, 2017.

[https://www.oregonlive.com/politics/2017/02/oregon\\_lottery\\_in\\_trouble.html](https://www.oregonlive.com/politics/2017/02/oregon_lottery_in_trouble.html)

<sup>18</sup> “How Much Money do Americans Spend on Lottery Tickets?” US Bureau of Labor Statistics, August 29, 2019.

<https://www.bls.gov/opub/ted/2019/how-much-money-do-americans-spend-on-lottery-tickets.htm>

**Figure 1: US annual lottery ticket spending, percentage of players by age group, 2017-2018**



Source: Statista, US Bureau of Labor Statistics

A recent Spectrum report on the potential of lottery reached precisely the same conclusion for precisely the same reasons. Much of the following analysis was also included in that study.

In pre-pandemic 2019, US consumers spent \$578.5 billion on overall online purchases, a 14.3% increase over 2018.<sup>19</sup> In an economy weighted down by a pandemic, the e-commerce spending trends were even more pronounced. E-commerce sales for the second quarter of 2021, adjusted for seasonal variation, were \$222.5 billion, an increase of 3.3% over the first quarter.<sup>20</sup> E-commerce sales continue to climb at a steady trajectory. In the most recent report, the US retail E-commerce sales for the first quarter of 2023 was \$272.6 billion, an increase of 3.0% over the fourth quarter of 2022.<sup>21</sup>

For millennials – a generation of more than 80 million Americans born between 1982 and 1996 – the trend toward e-commerce is even more pronounced. In 2017, millennials made 47% of their purchases online, and that grew to 60% by 2019.<sup>22</sup>

That growing preference, however, does not in any sense portend the doom of in-store sales. More than five years ago, *Forbes* noted:

The facts are clear. In most major markets, physical retail continues to grow, albeit at a far slower rate than online shopping. Lots of stores continue to be opened, including by quite a few brands that are hardly new or “digital-first” (think Dollar General or Aldi). And it is true that physical stores account for roughly 90% of all retail sales (at least in North America). Five years from now, by most estimates, that number is still likely to be well over 80%.

<sup>19</sup> “2019 E-Stats Report: Measuring the Electronic Economy,” US Census Bureau, August 5, 2021. <https://www.census.gov/newsroom/press-releases/2021/e-estats-report-electronic-economy.html>

<sup>20</sup> “Quarterly Retail E-Commerce Sales, 2<sup>nd</sup> Quarter 2021,” US Census Bureau, August 19, 2021. [https://www.census.gov/retail/mrts/www/data/pdf/ec\\_current.pdf](https://www.census.gov/retail/mrts/www/data/pdf/ec_current.pdf)

<sup>21</sup> “Quarterly Retail E-Commerce Sales Report, 1<sup>st</sup> Quarter 2023,” US Census Bureau, May 18, 2023 <https://www.census.gov/retail/ecommerce.html>.

<sup>22</sup> “The Millennial Shopping Report,” CouponFollow, March 19, 2019. [file:///C:/Users/Michael%20Pollock/Downloads/CouponFollow\\_Millennial\\_Shopping\\_Report\\_Winter\\_2019.pdf](file:///C:/Users/Michael%20Pollock/Downloads/CouponFollow_Millennial_Shopping_Report_Winter_2019.pdf)

Lotteries are not immune to such trends, and those who fear for the future of in-store sales can take heart in the clear understanding that physical stores will continue to represent the overwhelming majority of sales for the foreseeable future.

By way of example, convenience stores – a longstanding pillar of the lottery industry – offer some encouraging data of their own, including statistics that were reported during the Covid-19 pandemic.

While many retail segments lost in-store customers during the pandemic, convenience-store inside sales (not counting fuel revenue) increased 1.5% in 2020 to a record \$255.6 billion, and the average purchase rose by 18.4% to \$7.34, although total transactions fell by 13.9%.<sup>23</sup>

While the growth of in-store revenues indicates a positive outlook for convenience stores, the opportunities afforded by online shopping cannot be ignored. Indeed, another long-term trend must also be considered: Online offerings reach a broader demographic, including consumers who are often younger, may not be familiar with retail offerings or who simply find such in-store purchases to be inconvenient.<sup>24</sup>

Jackpocket reports that the average Jackpocket player is 36 years old and 58% of all Jackpocket players are within the 18-40 age range, which compares to 38% for retail lottery players.<sup>25</sup> Similarly, another lottery courier, theLotter, describes the breakdown of its players' ages to be:

- Seniors 8%
- Baby Boomers 15%
- Gen X 41%
- Millennials 36%<sup>26</sup>

The figures from the two most popular lottery couriers in the US would indicate that couriers are reaching the target demographic of younger players, a group that lotteries have endeavored to attract for several years.

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<sup>23</sup> "Convenience Stores Saw In-Store Sales Growth During Tumultuous 2020," National Association of Convenience Stores, April 14, 2021. [https://www.convenience.org/Media/Daily/2021/Apr/14/1-C-Stores-Saw-In-Store-Sales-Growth-2020\\_Research](https://www.convenience.org/Media/Daily/2021/Apr/14/1-C-Stores-Saw-In-Store-Sales-Growth-2020_Research)

<sup>24</sup> Paul Skeldon, "Gen Z and Millennial shoppers have shifted online, and the move is permanent for many," *Internet Retailing*, December 16, 2020. <https://internetretailing.net/customer/customer/gen-z-and-millennial-shoppers-have-shifted-online-and-the-move-is-permanent-for-many--22461>

<sup>25</sup> Jackpocket.com, "Jackpocket is creating a new demographic of lottery players," compiled by Jackpocket according to data from AppFollow as of July 27, 2022. <https://jackpocket.com/our-users/#target-item-2>

<sup>26</sup> National Council of Legislators from Gaming States Winter Conference Panel, December 13, 2021.

Jackpocket has recently rolled out a desktop App for its customers, allowing customers to order lottery tickets from their laptops. What has been seen is that while nearly 70% of the Jackpocket mobile users are ages 18-45, over 60% of desktop customers are 45 years and older.<sup>27</sup>

As of March, 2023, Jackpocket surpassed the \$250 million mark for total amount of lottery prizes won by Jackpocket customers since first launching in 2013. Additionally, 27 Jackpocket customers have won prizes worth \$1 million or greater,<sup>28</sup> with the largest individual winner being a \$9.4 million jackpot winner in New Jersey's Pick 6.<sup>29</sup> Further, as a testament to the importance of social networking capabilities offered by lottery couriers, Jackpocket had its first \$1 million winner in Minnesota in July 2018 within the first two weeks of operation in that state. The winner was a 20-year-old who was asked by a friend to register with Jackpocket so they each could receive two free plays. With his first free play he ordered a Powerball ticket and won the second-biggest prize.<sup>30</sup>

The experience of courier services has shown that they can advance two disparate goals that lotteries seek to address: Reaching new demographics, and not cannibalizing retail sales.

By way of example, New Mexico has shown that lottery couriers can increase lottery draw game sales without harming the retail sales. Jackpocket launched in New Mexico on March 31, 2022. From that date through September 18, Jackpocket generated \$1.04 million in sales, which equates to a weekly average of \$41,411.44. For comparison, the next largest retailer is a Speedway in Las Cruces, which had sales for the same period of \$302,964, with a weekly average of \$12,118.56.<sup>31</sup> Additionally, the New Mexico Lottery reported that the increased digital sales did not negatively impact retail sales.

Jackpocket has provided data that show it has gained significant market share in the states in which it operates. The following chart shows the percentage of sales for popular multi-state lottery games, Powerball and Mega Millions attributed to Jackpocket in three key states – New Jersey, New York and Texas – over a recent 13-month period:

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<sup>27</sup> Jackpocket Press Release, "The #1 Lottery Courier App in the U.S. is now Available from Your Browser," March 31, 2023. <https://www.prnewswire.com/news-releases/jackpocket-expands-lottery-courier-app-to-desktop-301781332.html>

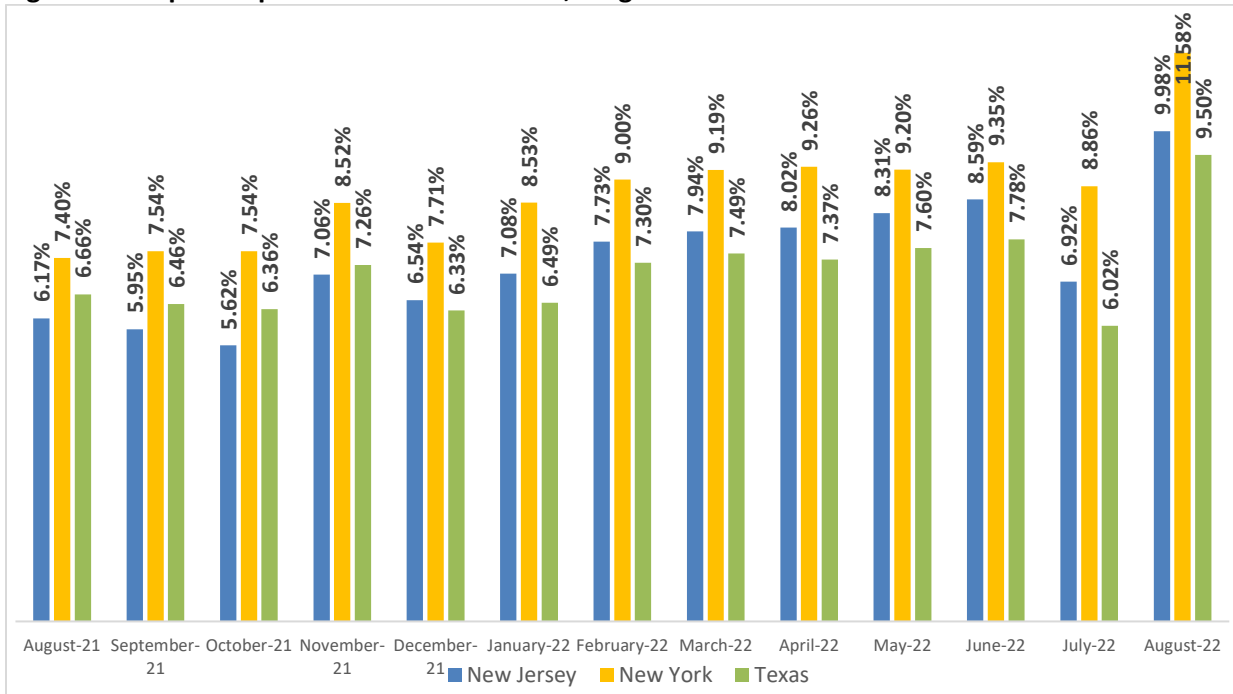
<sup>28</sup> Id.

<sup>29</sup> Jackpocket Blog, November 19, 2021. <https://blog.jackpocket.com/90m-in-lottery-prizes-won>

<sup>30</sup> Fox News 9 KMSP, "\$1 million lottery winner used controversial Jackpocket app to buy ticket," July 13, 2018. <https://www.fox9.com/news/1-million-lottery-winner-used-controversial-jackpocket-app-to-buy-ticket>

<sup>31</sup> Interview with David Barden, Director of the New Mexico Lottery, September 20, 2022.

**Figure 2: Jackpocket penetration of Powerball, Mega Millions**



Source: Jackpocket internal data

The trend shows significant market penetration in these three states over this time period, particularly in New York. We also note that courier sales were helped by large jackpots, including a drawing when the Mega Millions top prize exceeded \$1.2 billion.



## 3. Identifying Optimal Courier Business Model

### A. Lessons to be Learned

This analysis rests, in large measure, on legal research, on interviews with critical lottery officials and other stakeholders in a variety of states that allow courier services, and on interviews with those that are considering offering such services, as well as certain jurisdictions that oppose such offerings.

Within this still-embryonic industry, legitimate operators are already confronting a host of issues and challenges to be sorted out. As one example, this would include the rapid rise and fall of lottery.com.

This courier service announced in February 2021 that it had entered into a deal to become a publicly traded company, issuing a press release that noted:

Lottery.com has been a pioneer in the lottery industry, working closely with state regulators to advance the industry into the digital age. Through its online platform, Lottery.com provides official lottery games and enhanced regulatory capabilities by developing innovative blockchain technology, while also capturing untapped market share, including digitally native players.

With the expected proceeds to be received by Lottery.com upon the closing of the transaction, Lottery.com would be well-positioned to accelerate its revenue growth through further expansion in its existing markets and into new high-growth markets both domestically and internationally.<sup>32</sup>

In 2022, the financial health of lottery.com took a perilous turn for the worse. A filing with Securities and Exchange Commission noted:

On July 28, 2022, the Board of Directors of Lottery.com Inc. (the “Company”) determined that the Company does not currently have sufficient financial resources to fund its operations or pay certain existing obligations, including its payroll and related obligations. Accordingly, the Company intends to furlough certain employees effective July 29, 2022. As of July 29, 2022, the Company owed approximately \$425,000 in outstanding payroll obligations. The Company’s inability to pay this amount may result in employees terminating their relationship with the Company and/or pursuing legal remedies. Since the Company’s business is dependent on the efforts and talents of its employees, particularly its developers and engineers, and the provision of ongoing services to customers by its employees, a material loss of its employee base may result in the inability of the Company to operate its technology, meet its obligations to customers, the loss of key customer relationships and revenue, and claims for breach of contractual obligations.

Additionally, the Company’s capital resources are not sufficient to fund its operations for a twelve-month period and, therefore, there is substantial doubt about the Company’s ability to continue as a going concern. If the Company is not able to secure additional capital resources or otherwise fund its operations, the Company will be forced to wind down some or all of its operations and pursue options for liquidating the Company’s assets, including equipment and intellectual property.<sup>33</sup>

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<sup>32</sup> “Lottery.com, a Leading Platform to Play the Lottery Online, Enters into Definitive Agreement with Trident Acquisitions Corp. to Become Publicly Traded,” *Globe Newswire*, February 22, 2021. <https://www.globenewswire.com/news-release/2021/02/22/2179513/0/en/Lottery-com-a-Leading-Platform-to-Play-the-Lottery-Online-Enters-into-Definitive-Agreement-with-Trident-Acquisitions-Corp-to-Become-Publicly-Traded.html>

<sup>33</sup> [https://www.sec.gov/edgar/data/1673481/000121390022042692/ea163546-8k\\_lottery.htm](https://www.sec.gov/edgar/data/1673481/000121390022042692/ea163546-8k_lottery.htm) (accessed September 18, 2022)

Other legal and regulatory challenges have emerged as well for courier services. While player-protection includes ensuring that the lottery courier is purchasing a “real” lottery ticket for the player, lotteries seek to ensure that a lottery courier is only selling to customers located within that state. If a courier accepted and processed orders from other states or foreign jurisdictions, the lottery and the industry’s integrity would be damaged if a winning lottery jackpot was won by a person in another state or, more worrisome, from another country.

Consider the following account of a 2018 incident in Florida:

Aura Dominguez Canto got the call of her life while home in Panama that she had won the previous evening’s jackpot of \$30 million the previous night. She claimed in a lottery security affidavit she bought her ticket at a Florida Panhandle package goods store where the winning ticket was printed. But she had never set foot in the store. In the affidavit, she stated: “I asked my friend, Darian, to please buy it for me.” But when asked for Darian’s contact information she did not have it on her. Suspicious, lottery security started investigating the ticket sale before paying her the winnings.

An attorney Dominguez Canto used called lottery security later that evening to reveal she bought the ticket through TheLotter.com, an online lottery service.

Lottery security drove to the package store in Campbellton, where the owner admitted he used a laptop, printer and scanner provided by TheLotter.com to receive orders, print out play slips, and then scan images of the tickets printed from the retailer’s machines to send back to TheLotter.com office in Israel.

The next day “Darian” showed up at the lottery headquarters and introduced himself as Darian Stanford, an Oregon attorney who has represented TheLotter.com. He explained how TheLotter.com works and how he helped Dominguez Canto come into physical possession of the winning ticket printed out in the Panhandle.

Stanford told the state TheLotter.com allows players outside the United States to buy tickets from lotteries based in about 20 countries. It makes its profits by charging its customers more than the face value of the tickets – in some cases 50 percent more than the ticket would cost if bought in person, plus a service fee.

As for Dominguez Canto’s ticket, it took two weeks – as lottery security consulted law enforcement to determine if any criminal laws were broken – but eventually, lottery officials determined it was valid and Dominguez Canto was the rightful winner of the \$30 million Florida Lotto jackpot (\$21 million cash option).

In November, the lottery terminated its retailer contract, telling the owner in a letter the revocation was necessary “to ensure the integrity, security, honesty or fairness” of the lottery. Terminals were removed from the Campbellton store, and three others owned by the same corporation.<sup>34</sup>

During a recent Mega Millions run, the Mega Millions Consortium became aware that one of lottery couriers operating in Ohio, theLotter, had been accepting orders from Australia via its sister company, theLotter Australia. Upon learning of these transactions, the Illinois Lottery, on behalf of the Mega Millions Consortium, issued a cease-and-desist order, demanding that theLotter and theLotter Australia immediately:

- Cease the sale of Mega Millions tickets in Ohio.
- Cease the unauthorized use of the Mega Millions trademarks on its sites.

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<sup>34</sup> “Florida Lottery Shuts Down Some – But Not All – Retailers Linked To Online Scam,” NBC 6, Miami, FL, February 12, 2018. <https://www.nbcmiami.com/news/local/florida-lottery-shuts-down-some-but-not-all-retailers-linked-to-online-sales/163987/>

- Retract and correct the false and misleading publicly-disseminated information regarding the ability of theLotter Australia to process orders for tickets purchased outside of its jurisdiction.<sup>35</sup>

Upon being served the cease-and-desist order, theLotter and theLotter Australia both agreed to immediately comply with the order’s demands.

Such issues underscore the need for courier services to work with lotteries and other relevant regulatory agencies to develop an appropriate framework for operations that provides the high level of consumer protection that has always been the backbone of the traditional lottery industry, such as:

- Providing a necessary level of public confidence in the integrity of their operations
- Creating sufficiently high barriers for entry of lottery couriers into the lottery industry to ensure that all participants have the experience, financial wherewithal and operational integrity to operate legally

The central finding of our analysis is: In those lottery states (and the District of Columbia) that do not fully regulate lottery couriers, courier services should be required to earn the privilege of participating in lottery sales. This means:

- Couriers should submit to a process established by the state lottery akin to securing a lottery retailer license.
- Lotteries should provide some form of oversight of the courier operations, including reviewing, approving and monitoring their internal-control processes.
- Issues such as responsible-gaming, anti-money laundering, and “know your customer” practices are essential to ensuring public confidence in lottery operations, and as couriers play an increasingly prominent role in such operations, they should embrace a detailed working relationship with their host lotteries.

Lottery oversight of courier services will also expand the payment methods available to couriers, which would in turn greatly increase lottery sales. The optimal means of funding an e-wallet is through payment card networks, such as Visa or Mastercard. Absent access to such networks, a courier must rely on the services of such companies as PayPal, which will limit player transactions to bank transfers. For Visa and Mastercard transactions, the highest approval rates are found in Merchant Category Code (“MCC”) 7800, which is reserved for US state lotteries.<sup>36</sup>

To qualify for this MCC, a lottery courier must be able to show that it is acting with the approval of each state lottery and may “serve as the Merchant of Record” on behalf of the lottery for the courier transactions, and the networks generally require an attestation from the lottery to this effect. Additionally, as with mobile sports-betting and igaming operators, the courier must also submit a third-

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<sup>35</sup> The Mega Millions Consortium, July 29, 2022 letter from Pat McDonald of Ohio Lottery, Interview with Cornell Wilson III, General Counsel, Illinois Lottery, October 12, 2022

<sup>36</sup> Interview with Andrew Crowe, SVP Investor Relations & Growth Initiatives, Sightline Payments, September 27, 2022.

party legal opinion addressing state and federal law, along with a certification of their controls for verification of age and location.<sup>37</sup>

Additionally, we note that the current landscape allows for potentially unlawful lottery couriers to launch on a whim, with no notice to the lottery and consequently no oversight by the lottery. Therefore, the following should be recognized by lotteries:

- Lotteries that permit courier services must recognize the need for strict controls as well as close monitoring of courier policies and practices. This suggestion is based on the recognition – which has been demonstrated in states that offer courier services – that lottery players cannot be expected to distinguish between the courier service that orders the ticket and the lottery that sells it. That point is particularly important when a problem arises, as players will more likely turn initially to the lottery to resolve a dispute or correct a problem than they would be to turn initially to the courier service.
- With that caveat in mind, lotteries should consider developing and adhering to standing policies that they expect immediate, complete responses from their courier services when issues arise, i.e., problems must be solved and addressed to the satisfaction of all parties as quickly and completely as possible. At the same time, lotteries should adopt practices to notify the public, and most particularly the lottery players who raise issues of concern, that the courier services are private entities, separate from the lottery.
- While courier services can grow the demand for lottery sales, they will also grow the demand for lottery oversight. Lotteries need to anticipate and plan accordingly. As courier services will need some level of review and oversight, it is recommended that the lottery provide for the oversight of lottery couriers within current lottery departments that similarly oversee traditional retailers.
- Lotteries that have invested millions of dollars and have researched consumer preferences for years are understandably and justifiably concerned about maintaining their brand equity. Maintaining and enhancing the brand requires a combination of coordination with – and some level of oversight of – the courier services’ independent marketing efforts.
- While lotteries have independently developed their brands, some common threads run through the development efforts. These include a focus on the causes that lotteries support through their profits, with beneficiaries that range from schools and students to senior citizens, among others. By contrast, courier services have a goal of developing their brands, which may – depending on the service – offer a more edgy, youth-oriented feel.
- The need to coordinate dual – or multiple – branding goals and marketing campaigns requires that the lottery maintain brand pre-eminence. The lottery’s brand can neither be subsumed or weakened by a courier’s marketing effort. Maintaining that principle would require that all marketing efforts by couriers or other third parties – including branding with sports teams – be coordinated with the efforts of the lottery, with an eye toward enhancement of the lottery’s brand.

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<sup>37</sup> Ibid.

- Marketing efforts can be a two-way street. While courier services may elect to push the envelope in attracting new players, lotteries and their advertising agencies should pay close attention because they share the goal of broadening the player base. If the core lottery brand is viewed as stodgy or relatively ineffective, the courier services can offer a fresh perspective that lotteries may want to deploy within their larger marketing strategies.
- For example, Jackpocket has adopted a relatively aggressive marketing strategy that includes investing in non-traditional media outlets such as Barstool Sports Network. New Jersey Lottery Director James Carey has noted the significant presence of Jackpocket advertising on sports networks such as ESPN.<sup>38</sup>
- A telling anecdote comes from a 30-year-old male in southern New Jersey, outside Philadelphia, who learned about Jackpocket on KFC Radio, a Barstool channel. He ordered a ticket in August 2022, and he notes that he simply never considered purchasing a draw-game ticket from a retailer prior to that order.<sup>39</sup>
- The need for lotteries to oversee marketing and other efforts by couriers operating within their state would be an easier task if couriers notified their host lotteries in advance before deploying new campaigns. Seeking authorization in advance may slow the process down to some degree, but it would lead to a more productive relationship, and it would allow lotteries to identify problems in advance, rather than being forced to address them after the fact.
- Because courier services are well-positioned to work with lottery retailers, they can help reduce the normal cannibalization concerns of retailers, the primary reason for states to oppose ilottery. One way to deflect that opposition is to let the free market work, and along with an official ilottery program, allow retailers the ability to work with couriers. In addition, consider establishing an “eRetailer” system that would create a platform allowing any retailer to plug into and sell online and share in an ilottery experience.

## B. Examining the New Jersey Model

For nearly a half-century, New Jersey has developed a reputation as a gaming pioneer. Consider:

- In 1976, New Jersey became the first state other than Nevada to authorize legal casinos.
- In 2018, New Jersey won a landmark victory as the plaintiff in a lawsuit when the US Supreme Court deemed the Professional and Amateur Sports Protection Act (“PASPA”) to be unconstitutional.<sup>40</sup>
- In 2013, New Jersey was one of the first states to authorize igaming.

Most notably for purposes of this report, New Jersey was the first to authorize a courier service via state law, embarking on a path that proved to be anything but smooth.

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<sup>38</sup> East Coast Gaming Congress, September 22, 2022.

<sup>39</sup> Interview with Tim Horlacher, September 9, 2022.

<sup>40</sup> [https://www.supremecourt.gov/opinions/17pdf/16-476\\_dbfi.pdf](https://www.supremecourt.gov/opinions/17pdf/16-476_dbfi.pdf) (accessed August 21, 2022)

When the concept of a lottery courier service first took shape in New Jersey in 2015, the stated goal was increasing convenience for players; it did not overtly claim to be a delivery method that would take full advantage of digital commerce to broaden the demographic reach of the lottery.

Assemblyman John Burzichelli introduced his legislation in 2015, noting that “If you're either too busy or can't get out of the house (to purchase lottery tickets), you can make arrangements.”<sup>41</sup>

As the bill progressed in the Legislature, it ran into several roadblocks, including opposition from newspapers throughout the state. For example, *The Press of Atlantic City* noted in an editorial that Burzichelli's nod to increased convenience was not good public policy.

The newspaper noted: “Inconvenient? Lottery tickets are available just about everywhere ... especially in poor neighborhoods. The bill seems like a dangerous expansion of the state's marketing efforts – one that preys on the vulnerable.”<sup>42</sup>

New Jersey Gov. Chris Christie made similar points when he vetoed the bill – which had been approved by both houses of the state legislature – in November 2015.<sup>43</sup>

The New Jersey Lottery is one of the most important drivers of revenue in the State of New Jersey. It collects hundreds of millions of dollars used to finance our schools and infrastructure and relies on its reputation as one of the safest forms of wagering, free from tampering and fraud. This bill proposes to allow lottery courier services to operate in New Jersey and charge a fee for the procurement and storage of lottery tickets for customers who cannot purchase their own tickets at one of over seven thousand licensed lottery retailers. However, there is no evidence of a demand for this service in New Jersey or that this bill would increase lottery sales. On the other hand, this bill may have the unintended consequences of empowering and appearing to legitimize fraudsters, giving them more opportunities to target the elderly and infirm. The elderly are already frequent targets of fraud and I cannot approve of a bill that has significant potential to increase the frequency and gravity of fraud committed against the elderly.

The issue did not fade away following the governor's veto. For example, a hearing of the New Jersey Assembly Tourism, Gaming and the Arts Committee was held in Trenton the following December. Spectrum Gaming Group Managing Director Michael Pollock was among those who testified at that hearing, noting that the experience in Michigan, which was already offering an ilottery product, did not cannibalize retail sales, and that other states would experience the same results. The testimony noted:<sup>44</sup>

How can sales and commissions at brick-and-mortar retailers grow, when a more convenient alternative is available?

The core answer to that question is that the people who are spending money online, taking advantage of the technology and the convenience offered by online sales, are largely not the same people who have

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<sup>41</sup> Brent Johnson, “Lottery Tickets Could Soon Be Delivered to Your Home in N.J.,” nj.com March 3, 2015. [https://www.nj.com/politics/2015/03/lottery\\_tickets\\_could\\_soon\\_be\\_delivered\\_to\\_your\\_home\\_in\\_nj.html](https://www.nj.com/politics/2015/03/lottery_tickets_could_soon_be_delivered_to_your_home_in_nj.html)

<sup>42</sup> “Lottery Couriers/Preying on the Vulnerable,” *The Press of Atlantic City*, March 23, 2015. [https://pressofatlanticcity.com/opinion/editorials/lottery-couriers-preying-on-the-vulnerable/article\\_9c518ade-e81d-5aaa-b09e-5d2309f1d69c.html](https://pressofatlanticcity.com/opinion/editorials/lottery-couriers-preying-on-the-vulnerable/article_9c518ade-e81d-5aaa-b09e-5d2309f1d69c.html)

<sup>43</sup> [https://pub.njleg.gov/bills/2014/A4500/4018\\_V1.PDF](https://pub.njleg.gov/bills/2014/A4500/4018_V1.PDF) (accessed August 18, 2022)

<sup>44</sup> Testimony of Michael Pollock before New Jersey Assembly Committee on Tourism, Gaming and the Arts, December 5, 2016.

traditionally bought lottery tickets at retailers. The individuals who order lottery tickets from a courier service, tend to be a younger demographic who have never previously been a lottery player. The digital app utilized by couriers that allow customers to order lottery tickets, invite friends to play and be able to share their experiences with their friends are all similar to this demographic's preferred manner to order and purchase all types of commodities and services.

The research to date indicates that the people who purchase lottery tickets at retailers, and who buy coffee, doughnuts, cigarettes and other items from retailers are still doing so, while new technologies allow lotteries to tap new, largely younger demographics and grow overall lottery sales, and with the added bonus of cross-marketing, can actually grow retailer sales and commissions as well.

During this post-veto period, gaming attorney Lloyd D. Levenson was asked by a client at the time to undertake a series of steps to revise the proposed legislation and address the concerns that were expressed in Christie's veto message.<sup>45</sup>

Levenson reached out to Christie's staff to gain some insights into the concerns. Apparently, he said, the governor had been incorrect regarding information that courier services' marketing strategy would be to prey upon elderly people, encouraging them to spend more than they could afford on lottery tickets.

Levenson explained that that was not the intent, and such goals did not comport with the business model of couriers, who were targeting younger demographics who were not likely to visit lottery retailers to purchase tickets, but were comfortable with placing such orders on their mobile devices.

Still, in order to assuage such concerns, new language needed to be developed to ensure the support of the governor, as well as to enhance the support of the public at large.

What New Jersey did following that veto message offers a telling lesson, and effectively led to the adoption of the nation's first fully regulated lottery courier service, with Christie signing a revised bill 14 months after his veto of the earlier effort. Not all critics were immediately convinced, however. The state's lottery director at the time, Carole Hedinger, expressed a hope that the governor would veto the revised legislation.

The Lottery Commission's records from a December 2016 meeting indicate that Hedinger said at the time that: "It's a risky proposition ... The Lottery has opposed this legislation since it was introduced."<sup>46</sup>

The key distinctions between the legislation that Christie vetoed and the bill he signed, which is now the governing statute, including the following sections that are in the current statute but were not referenced in the legislation that was vetoed.<sup>47</sup> As drafted and signed into law, the governing statute:

- Provides that the Lottery can accept complaints, investigate and shall have the power to suspend or revoke a lottery courier license.

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<sup>45</sup> Interview with Lloyd Levenson, September 8, 2022.

<sup>46</sup> "New Jersey Law First to Legalize Lottery Courier Services," Associated Press, February 10, 2017. <https://www.burlingtoncountytimes.com/story/news/state/2017/02/11/new-jersey-law-1st-to/17668067007/>

<sup>47</sup> [https://pub.njleg.gov/bills/2016/PL17/11\\_.PDF](https://pub.njleg.gov/bills/2016/PL17/11_.PDF) (accessed August 21, 2022)

- Requires the lottery courier must maintain an Internet site that prominently displays the following:
  - Warning that a player is at risk of being defrauded if the player is purchasing lottery tickets from an unlicensed lottery courier.
  - Information on how to seek help for problem gambling through education, telephone, from the internet or other electronic means.
  - States that the lottery courier shall (i) safeguard the personal information of the customer including credit card numbers and (ii) verify the age and physical location of the customer utilizing the lottery courier services.
  - Expands on the ability to redeem a winning ticket on behalf of a customer if it is in a manner that makes sense for the customer and transparent to the public.
  - States that any person or entity operating without a lottery courier license shall be guilty of a crime of the third degree.

The regulations that were subsequently developed to implement the statute make clear that courier services must reasonably adhere to requirements in place for the state’s casino industry. For example, the regulations note:<sup>48</sup>

As a condition to the issuance of a courier registration, the courier service system must undergo independent third-party testing. A courier service may choose a laboratory approved by the Director or the laboratory operated by the NJDGE (New Jersey Division of Gaming Enforcement), except where indicated, testing must be performed by the NJDGE. All third-party testing shall be at the prospective courier service’s expense. At the conclusion of third-party testing, the laboratory performing the test must submit a written report to the Division detailing the testing performed and the findings. If the testing is performed by the NJDGE, a letter from NJDGE showing NJDGE’s findings shall be sent to the Division. The Division may require any conditions to be satisfied prior to the prospective courier service beginning operations.

Courier services that operate or seek to operate in New Jersey must be “registered,” rather than “licensed,” although there are no practical distinctions between the terms. For example, the regulations allow the Lottery Director to deny, revoke, suspend or refuse to renew registration for a courier service, based on a variety of measures, including “Whenever it is determined that such action would be in the best interest of the Lottery based on actions that reflect upon the agent's or courier service’s moral character or affect the integrity of the Lottery.”<sup>49</sup>

Most significant, the Director may also deny registration “whenever an agent or courier service has violated the Federal Organized Crime Control Act of 1970, or committed the crime of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen

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<sup>48</sup> New Jersey Administrative Code, Title 17, Chapter 20. [https://njs-cdn.lotteryservices.com/content/dam/portal/pdfs/about\\_us/comission\\_legislation/NJAC Title17 Chapter20 Effective 8-6-2018.pdf](https://njs-cdn.lotteryservices.com/content/dam/portal/pdfs/about_us/comission_legislation/NJAC Title17 Chapter20 Effective 8-6-2018.pdf) (accessed August 20, 2022)

<sup>49</sup> Ibid.



property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty or committed an act of moral turpitude.”<sup>50</sup>

That focus on requirements for integrity and strict controls made the revised legislation more acceptable in New Jersey. Over time, the New Jersey Lottery itself went from strong opposition to offering courier services to strong support, as witnessed by a December 2019 press release that the lottery itself put out when its first courier service was registered.<sup>51</sup>

The New Jersey Lottery announced this week that Jackpocket has become the first regulated courier service in the state under a 2016 law that authorized third-party companies to register to sell lottery tickets online. Although lottery courier services have been operating in states around the country, New Jersey is the first lottery to formally regulate couriers, providing a safer, more convenient experience for players in the Garden State.

“In New Jersey, 5.5 million adults actively use their smartphones to make daily purchases for everything from food to music. Now online players can use their smartphones to access a more convenient way to participate in the Lottery within state borders,” said James A. Carey, Acting Executive Director of the New Jersey Lottery. “Tech savvy adults are will [sic] appreciate the consumer protections written into the regulations developed in compliance with this act, which allow for a fun and responsible gaming experience.”

Since the adoption of courier services in New Jersey, the experience has been characterized by multiple stakeholders as positive, with established procedures that all parties have agreed to adhere to. The New Jersey Division of Gaming Enforcement, an agency within the Department of Law and Public Safety under the overall direction of the state Attorney General, conducts all background investigations and submits its findings to the Lottery Commission. Notably, the NJDGE has a history dating back to the 1970s of conducting thousands of background investigations of individuals and enterprises, and is widely considered to be the most effective public agency in the United States to offer such services.

Just as with casino licensing, the applicants pay the cost of their own investigation. That is a necessary means of funding such investigations, and should be considered a necessary cost for those seeking the privilege of licensure or registration in the state.

## C. Experience in New York, Other States

Like New Jersey, New York currently has two licensed lottery couriers, Jackpocket and Lotto.Com. Also, like New Jersey, the adoption process was not free of concern or controversy.

When the New York State Gaming Commission, which oversees the lottery, adopted courier services in 2021, the New York Association of Convenience Stores raised a concern. Association President

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<sup>50</sup> Ibid.

<sup>51</sup> [https://www.njlottery.com/en-us/newsandevents/newsinput/2019/press-releases/NJL\\_Courier\\_121219.html](https://www.njlottery.com/en-us/newsandevents/newsinput/2019/press-releases/NJL_Courier_121219.html) (accessed August 20, 2022)

Jim Calvin said at the time: “We do think it is a small step in the direction of taking the entire New York lottery system online, and that’s something that we would strenuously object to.”<sup>52</sup>

New York’s experience to date indicates the lottery players ordering tickets from either of these couriers appear to be a younger demographic. Moreover, the technical processes and capabilities of the licensed couriers in fulfilling ticket orders provides a more modern experience. Notably, sports bettors, who are known to be a younger demographic than retail lottery players, are heavily represented among consumers who ordered lottery tickets through a courier.

Couriers are viewed in New York as independent lottery-related service entities, and are not considered a part of the lottery, and the lottery takes great pains to make that clear to consumers. Any consumer complaints, issues or questions received by the lottery are directed to and handled by the courier, not the lottery. The lottery will address consumer complaints directly if it believes a complaint might damage the lottery’s relationship with its players.

The New York Lottery pays close attention to the couriers’ advertising to ensure it does not conflict with the lottery’s own messaging and branding. Lottery staff recognizes that it has dedicated decades to build and maintain a brand based upon integrity, fairness, and player-protection. A courier’s advertising, for example, needs to be consistent with the lottery’s advertising with respect to responsible gaming. Additionally, courier advertising cannot describe its services as “digital play,” but rather as “digital ordering.”

The licensed courier applications in both New York and New Jersey are very complete and detailed, requiring a lottery courier applicant to demonstrate a commitment to good character, honesty and integrity. The applications require detailed information regarding the applicant, including but not limited to details regarding anti-money laundering policies and practices, background checks and identification of all investors.

Regulations in New York require the couriers to submit to the lotteries detailed daily, weekly, monthly, quarterly, and annual reports for each aspect of the licensed courier’s operation and each must be reviewed for the protection of the integrity of the lottery.

Current regulations in New York include the following relevant points:<sup>53</sup>

- Time requirements
  - Completion of ticket processing. For each request for courier services through a network placed during normal business hours, a courier service shall complete ticket processing

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<sup>52</sup> New York to allow instant lottery ticket delivery by phone,” Associated Press, January 27, 2021. <https://www.nydailynews.com/news/politics/new-york-elections-government/ny-lottery-ticket-delivery-20210127-h3sjrciaircn3dprq2iww5dj4y-story.html>

<sup>53</sup> N.Y. Comp. Codes R. & Regs. tit. 9 § 5014.12. <https://casetext.com/regulation/new-york-codes-rules-and-regulations/title-9-executive-department/subtitle-t-new-york-state-gaming-commission/chapter-iii-division-of-lottery/subchapter-a-state-lottery/part-5014-courier-services/section-501412-courier-service-fulfillment#:~:text=A%20courier%20service%20shall%20cease,as%20specified%20by%20the%20commission.> (accessed September 2, 2022)

by: (i) the sooner of 30 minutes before the relevant drawing cutoff or within 24 hours of the placement of the request, for a draw game ticket; or (ii) within 24 hours of the placement of the request, for an instant lottery game ticket available for sale by a lottery sales agent.

- Cutoff for accepting requests for a draw game ticket. A courier service shall cease accepting requests for courier services for a draw game ticket no more than two hours and no less than a time period prior to the drawing cutoff, as specified by the commission. A platform shall provide a message to all courier customers who attempt to place requests after the drawing cutoff but prior to the drawing, informing such courier customers that the ticket purchase associated with the order will be fulfilled for the next available drawing, unless such courier customer chooses to cancel the request.
- Cutoff for accepting requests for an instant lottery game ticket. A courier service shall not accept a request for courier services for an instant lottery game ticket after the announced end of the game relating to such ticket.
- A courier service shall not accept an order to purchase an instant game ticket that is not available for sale to the public by a lottery sales agent at the time such request is made.
  - **Required cancellation.** A network shall cancel a request for courier services automatically, notify the courier customer and refund any payment, including any courier customer fee, in the event ticket processing is not complete prior to: (1) the drawing cutoff, for a draw game ticket; or (2) the announced end of the game, for an instant lottery game ticket.
  - **Purchase of multi-drawing lottery tickets.** A courier service may offer to purchase on behalf of a courier customer multi-draw tickets only to the extent that such tickets would be permitted to be purchased by a lottery customer directly from a lottery sales agent.
  - **Ticket processing.** Each courier service shall accomplish all ticket processing requirements for each ticket issued on behalf of a courier customer. Each ticket purchased or obtained pursuant to a lottery promotion by a courier service on behalf of a courier customer shall represent the unique, individualized transaction of the courier customer on whose behalf the ticket was issued.
  - **Storage of tickets.** Each courier service shall store each physical draw game ticket purchased on behalf of a courier customer securely in a safe or vault with a minimum fire rating of Class 150-1 Hour issued by Underwriter Laboratories Inc., or such equivalent rating approved by the commission. The premises housing such safe or vault shall be protected by a burglary alarm system with 24-hour central station monitoring.
  - **Retention requirements.** Each courier service shall retain each draw game ticket issued for a courier customer until at least 90 days have passed from the expiration of the applicable period in which a prize claim validly may be made to the commission in regard to such ticket. In the event of a required cancellation pursuant to subdivision (b) of this section, the courier service shall destroy, prior to the drawing cutoff, the bet ticket for which ticket processing had not been completed and shall notify the commission within 24 hours of such action,

providing in such notice the information set forth in paragraph (1) of subdivision (g) of section 5014.7 of this Part with respect to such ticket.

- **Instant lottery game tickets.** A courier service shall deliver each printed instant lottery game ticket to the courier customer who requested and paid for the purchase of such ticket. The commission shall not be responsible for any acts, omissions or errors a courier service may make in revealing an instant ticket's prize symbols or validation data or anything else that may cause such ticket to fail to meet the validation requirements set forth in sections 5003.2 or 5006.8 of this subchapter. The commission shall not pay any prize on an instant lottery game ticket that does not meet the validation requirements set forth in sections 5003.2 or 5006.8 of this subchapter.

## D. Ilottery and Courier Services

As with ilottery, lottery couriers create new channels to reach consumers, and they also can provide a bridge for lotteries that face political hurdles to establishing an ilottery initiative. Indeed, several lottery directors interviewed for this analysis have quietly noted that, even in states that do not require legislative approval to establish ilottery, they would expect to face significant, visible opposition through such actions. With that in mind, courier services have been perceived as a more acceptable half-step.

While couriers are offering the actual lottery's draw games and ordering those tickets from lottery retailers, they are also demonstrating an ability to attract a different demographic through the way the tickets are ordered. The lottery couriers' model for the ordering of lottery tickets is consistent with the way many individuals currently make purchases: via a mobile device, a method that is more likely to attract a younger demographic.

Effectively, ilotteries and lottery couriers can co-exist and together can provide a lottery with more revenue and more expansive player bases. All state lotteries have developed networks that link thousands of licensed retailers, yet each lottery also employs sales representatives whose jobs include finding additional retail locations to become lottery retailers. The same holds true for the electronic distribution of lottery tickets. As lotteries offer more channels for distribution, sales will increase.

## 4. Conclusion

The expansion of courier services across the United States is the byproduct of several inexorable forces that are changing consumer behavior, most notably the growth of digital commerce. At the same time, different demographic groups have diverged in how they spend leisure time, and how they view leisure activities.

The business model adopted by successful courier services rests on the following principles:

- Lotteries need to develop a robust omni-channel marketing strategy to reach more consumers
- Younger generations are simply not going to emulate the purchasing habits of older generations, particularly when it comes to in-store purchases
- Added convenience is a powerful attribute that consumers of all ages will find compelling
- Courier services must adhere to established principles of gaming regulation and compliance to help ensure public confidence in their offering

Courier services that do not adopt all of these principles are less likely to succeed, simply because such operators are less likely to be embraced by lotteries. The adoption of these principles means that courier services must view themselves as a digital retailer that is focused on draw games. By comparison, lotteries are also viewed as digital retailers, with a focus on instant games.

As courier services evolve into a critical element of the lottery industry, the over-arching policy goals are for lotteries to:

- Provide a necessary level of public confidence in the integrity of courier operations
- Create sufficiently high barriers to entry to ensure that all participants have the experience, financial wherewithal and operational integrity to operate legally

With those goals in mind, best practices for lotteries to consider when working with courier services are:

- Adopt effective “know your customer” practices, including age, identity and geolocation verification.
- Require that couriers:
  - Order and scan every ticket (front and back) and send the scanned ticket to the customer within a reasonably designated time.
  - Store each physical draw game ticket ordered on behalf of a customer securely in a safe or vault with a minimum fire rating of Class 150-1 Hour issued by Underwriter Laboratories Inc., or such equivalent rating approved by the commission. The premises housing such safe or vault shall be protected by a burglary alarm system with 24-hour central station monitoring.

- Submit all gaming platforms such as random number generators, identity of the customer, and geolocation services to be tested by an independent gaming laboratory for approval.

We note that such goals are consistent with the stated goals of the North American Association of State and Provincial Lotteries, which seeks to “promote recognition of the importance of maintaining public confidence and support for state and provincial sponsored lottery organizations as a means of generating revenue to meet public needs.”<sup>54</sup>

The current courier business model will continue to evolve and adapt to changing conditions. Moreover, we expect that courier orders will grow, both in real dollars, as well as in terms of a percentage of overall sales.

New competition may emerge, including from lotteries themselves that may elect to provide their own digital draw-game offerings. But irrespective of such future changes, the current courier model demonstrates that a well-designed digital offering that adheres to effective regulatory and policy rules can expand the demographic reach of lottery draw games. Together with lottery providers that focus on instant games, these emerging models will clearly help lotteries reach a long-elusive but essential goal: staying relevant for younger generations.

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<sup>54</sup> “Welcome to NASPL,” <https://www.naspl.org/> (accessed October 8, 2022)

## About This Report

This report was prepared by Spectrum Gaming Lottery Group, a division of Spectrum Gaming Group, a non-partisan consultancy founded in 1993 that specializes in the economics, regulation and policy of legalized gambling worldwide. Our principals have backgrounds in operations, economic analysis, law enforcement, regulation, research and journalism.

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Our clients in 43 US states and territories, and in 48 countries on six continents, have included government entities of all types and gaming companies (national and international) of all sizes, both public and private. In addition, our principals have testified or presented before the following governmental bodies:

- Brazil Chamber of Deputies
- British Columbia Lottery Corporation
- California Assembly Governmental Organization Committee
- Connecticut Public Safety and Security Committee
- Florida House Select Committee on Gaming
- Florida Senate Gaming Committee
- Georgia House Study Committee on the Preservation of the HOPE Scholarship Program
- Georgia Joint Committee on Economic Development and Tourism
- Illinois Gaming Board
- Illinois House Executive Committee
- Indiana Gaming Study Commission
- Indiana Horse Racing Commission
- International Tribunal, The Hague
- Iowa Racing and Gaming Commission
- Louisiana House and Senate Joint Criminal Justice Committee
- Massachusetts Gaming Commission
- Massachusetts Joint Committee on Bonding, Capital Expenditures, and State Assets
- Michigan Senate Regulatory Reform Committee
- National Gambling Impact Study Commission
- New Hampshire Gaming Study Commission
- New Jersey Assembly Regulatory Oversight and Gaming Committee
- New Jersey Assembly Tourism and Gaming Committee
- New Jersey Senate Legislative Oversight Committee
- New Jersey Senate Wagering, Tourism & Historic Preservation Committee

- New York Senate Racing, Gaming and Wagering Committee
- New York State Economic Development Council
- North Dakota Taxation Committee
- Ohio House Economic Development Committee
- Ohio Senate Oversight Committee
- Pennsylvania Gaming Control Board
- Pennsylvania House Gaming Oversight Committee
- Puerto Rico Racing Board
- US House Congressional Gaming Caucus
- US Senate Indian Affairs Committee
- US Senate Permanent Subcommittee on Investigations
- US Senate Select Committee on Indian Gaming
- US Senate Subcommittee on Organized Crime
- Washington State Gambling Commission
- West Virginia Joint Standing Committee on Finance
- World Bank, Washington, DC

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