

By: Wilson

H.B. No. 55

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Texas Lottery
3 Commission; providing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 466.014, Government Code, is amended by
6 adding Subsection (d) to read as follows:

7 (d) A contract between the division and a lottery operator
8 under Subsection (b) must contain a provision allowing the contract
9 to be terminated without penalty if the division is abolished.

10 SECTION 2. Section 466.022(b), Government Code, is amended
11 to read as follows:

12 (b) In addition to commission records excepted from
13 disclosure under Chapter 552, the following information is
14 confidential and is exempt from disclosure:

15 (1) security plans and procedures of the commission
16 designed to ensure the integrity and security of the operation of
17 the lottery;

18 (2) information of a nature that is designed to ensure
19 the integrity and security of the selection of winning tickets or
20 numbers in the lottery, other than information describing the
21 general procedures for selecting winning tickets or numbers; ~~and~~

22 (3) the street address and telephone number of a prize
23 winner, if the prize winner has not consented to the release of the
24 information; and

1 (4) personal information identifying an individual
2 collected as part of a player informational database.

3 SECTION 3. Section 466.024(c)(2), Government Code, is
4 amended to read as follows:

5 (2) "Video lottery machine" or "machine" means:

6 (A) any electronic video game machine that, on
7 [upon] insertion of cash or credit or for any other consideration,
8 is available to play or simulate the play of a video facsimile of
9 [game, including video] poker, keno, [and] blackjack, or slots; or

10 (B) a video device that uses [using] a video
11 display and microprocessors and is designed, constructed, adapted,
12 or maintained to afford a person who pays consideration to play or
13 use the machine an opportunity to obtain a thing of value based
14 solely or in substantial part on chance, including [in which the
15 player may receive free games or credits that can be redeemed for]
16 cash, coins, merchandise, gift certificates, [or] tokens, and free
17 games or credits that can be redeemed for [or that directly
18 dispenses] cash, coins, merchandise, gift certificates, or tokens.

19 SECTION 4. Subchapter B, Chapter 466, Government Code, is
20 amended by adding Section 466.027 to read as follows:

21 Sec. 466.027. COMPREHENSIVE BUSINESS PLAN. (a) The
22 commission shall develop a comprehensive business plan to guide the
23 commission's major initiatives. The plan must at a minimum
24 include:

25 (1) a description of each commission program and
26 project;

27 (2) key management information;

1 (3) accurate financial data; and

2 (4) a detailed financial management plan.

3 (b) The commission shall at least annually review the
4 comprehensive business plan to assess the overall performance and
5 value of each program and project.

6 SECTION 5. Subchapter B, Chapter 466, Government Code, is
7 amended by adding Section 466.0245 to read as follows:

8 Sec. 466.0245. PROHIBITED GAMING MACHINES; DUTIES OF
9 COMPTROLLER. (a) In this section, "prohibited gaming machine"
10 means a machine that is:

11 (1) prohibited under this chapter; or

12 (2) a gambling device, as defined by Section 47.01,
13 Penal Code, that is possessed, used, exhibited, or displayed in a
14 manner that violates Chapter 47, Penal Code.

15 (b) The comptroller or an authorized representative of the
16 comptroller may seal a prohibited gaming machine in a manner that
17 prevents the full operation of the machine.

18 (c) The comptroller may assess a penalty of not less than
19 \$500 and not more than \$10,000 against a person who exhibits,
20 displays, or provides to another a prohibited gaming machine.

21 (d) Notwithstanding the penalty provided by other law, an
22 offense under Section 2153.355(a)(5), (6), or (7), Occupations
23 Code, or under Section 2153.361, Occupations Code, is a Class A
24 misdemeanor if the offense involves a prohibited gaming machine.

25 (e) In addition to the amounts allocated under Section
26 466.355(b), \$5 million is allocated from the state lottery account
27 in each fiscal biennium to the comptroller to enforce this section.

1 SECTION 6. Subchapter C, Chapter 466, Government Code, is
2 amended by adding Section 466.1005 to read as follows:

3 Sec. 466.1005. PROCUREMENTS. (a) The commission may
4 purchase or lease facilities, goods, and services and make any
5 purchases, leases, or contracts necessary for carrying out the
6 purposes of this chapter.

7 (b) The commission shall review and must approve all major
8 procurements as provided by commission rule. The commission by
9 rule shall establish a procedure to determine what constitutes a
10 major procurement based on the cumulative value of a contract and
11 other relevant factors.

12 (c) The commission may delegate to the executive director
13 the authority to approve procurements other than major
14 procurements.

15 SECTION 7. Section 466.101, Government Code, is amended by
16 amending Subsections (a) and (b) and adding Subsection (f) to read
17 as follows:

18 (a) The commission and executive director may establish
19 procedures for the purchase or lease of facilities, goods, and
20 services and make any purchases, leases, or contracts that are
21 necessary for carrying out the purposes of this chapter. The
22 procedures must, as determined feasible and appropriate by the
23 commission and executive director, promote competition to the
24 maximum extent possible.

25 (b) In all procurement decisions, the commission and
26 executive director shall take into account the particularly
27 sensitive nature of the lottery and shall act to promote and ensure

1 integrity, security, honesty, and fairness in the operation and
2 administration of the lottery and the objective of producing
3 revenues for the state treasury.

4 (f) In awarding a contract under this chapter or evaluating
5 a bid or proposal relating to a contract, the executive director may
6 consider a vendor's economic impact to the state or a political
7 subdivision of the state.

8 SECTION 8. Subchapter C, Chapter 466, Government Code, is
9 amended by adding Section 466.111 to read as follows:

10 Sec. 466.111. SALE OF LOTTERY PROMOTIONAL MERCHANDISE. (a)
11 The commission may make available for sale to the public lottery
12 promotional merchandise to market and promote ticket sales.

13 (b) The executive director shall propose rules to be adopted
14 by the commission regarding sales of lottery promotional
15 merchandise, including the method for pricing, advertising,
16 purchasing, and selling lottery promotional merchandise.

17 (c) Proceeds from the sale of lottery promotional
18 merchandise, less the cost of advertising the sale and any related
19 expenses, shall be deposited to the credit of the general revenue
20 fund.

21 SECTION 9. Section 466.151, Government Code, is amended by
22 amending Subsection (d) and adding Subsection (f) to read as
23 follows:

24 (d) The director may license as a sales agent each person
25 the director believes will best serve the public convenience. The
26 director may not issue a license to a person to engage in business
27 exclusively as a sales agent. A license may not be transferred or

1 assigned to any other person [~~or location~~].

2 (f) On application by a sales agent the director may amend
3 the sales agent's license to change the location of the sales
4 agency, if the proposed location complies with this chapter. The
5 application must be on a form prescribed by the director and be
6 accompanied by a fee in an amount determined by the director to be
7 at least sufficient to cover the costs incurred by the division for
8 processing the license amendment. The sales agent must certify to
9 the director that the proposed location complies with the Americans
10 with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

11 SECTION 10. Section 466.155(a), Government Code, is amended
12 to read as follows:

13 (a) After a hearing, the director shall deny an application
14 for a license or the commission shall suspend or revoke a license if
15 the director or commission, as applicable, finds that the applicant
16 or sales agent:

17 (1) is an individual who:

18 (A) has been convicted of a felony, criminal
19 fraud, gambling or a gambling-related offense, or a misdemeanor
20 involving moral turpitude, if less than 10 years has elapsed since
21 the termination of the sentence, parole, mandatory supervision, or
22 probation served for the offense;

23 (B) is or has been a professional gambler;

24 (C) is married to an individual:

25 (i) described in Paragraph (A) or (B); or

26 (ii) who is currently delinquent in the
27 payment of any state tax;

1 (D) is an officer or employee of the commission
2 or a lottery operator; or

3 (E) is a spouse, child, brother, sister, or
4 parent residing as a member of the same household in the principal
5 place of residence of a person described by Paragraph (D);

6 (2) is not an individual, and an individual described
7 in Subdivision (1):

8 (A) is an officer or director of the applicant or
9 sales agent;

10 (B) holds more than 10 percent of the stock in the
11 applicant or sales agent;

12 (C) holds an equitable interest greater than 10
13 percent in the applicant or sales agent;

14 (D) is a creditor of the applicant or sales agent
15 who holds more than 10 percent of the applicant's or sales agent's
16 outstanding debt;

17 (E) is the owner or lessee of a business that the
18 applicant or sales agent conducts or through which the applicant
19 will conduct a ticket sales agency;

20 (F) shares or will share in the profits, other
21 than stock dividends, of the applicant or sales agent; or

22 (G) participates in managing the affairs of the
23 applicant or sales agent;

24 (3) has been finally determined to be:

25 (A) delinquent in the payment of a tax or other
26 money collected by the comptroller, the Texas Workforce Commission,
27 or the Texas Alcoholic Beverage Commission;

1 (B) in default on a loan made under Chapter 52,
2 Education Code; or

3 (C) in default on a loan guaranteed under Chapter
4 57, Education Code;

5 (4) is a person whose location for the sales agency is:

6 (A) a location licensed for games of bingo under
7 Chapter 2001, Occupations Code;

8 (B) on land that is owned by:

9 (i) this state; or

10 (ii) a political subdivision of this state
11 and on which is located a public primary or secondary school, an
12 institution of higher education, or an agency of the state; ~~or~~

13 (C) a location for which a person holds a wine and
14 beer retailer's permit, mixed beverage permit, mixed beverage late
15 hours permit, private club registration permit, or private club
16 late hours permit issued under Chapter 25, 28, 29, 32, or 33,
17 Alcoholic Beverage Code; or

18 (D) a location:

19 (i) in a facility that shares a common roof
20 or common foundation with a location at which a gambling device, as
21 defined by Section 47.01, Penal Code, is operated or located; or

22 (ii) within 150 feet of the facility that
23 shares the common roof or common foundation described by
24 Subparagraph (i); or

25 (5) has violated this chapter or a rule adopted under
26 this chapter.

27 SECTION 11. Section 466.158, Government Code, is amended by

1 adding Subsections (d), (e), and (f) to read as follows:

2 (d) In making a determination whether to renew a license,
3 the commission shall consider the compliance history of a license
4 holder. The commission shall adopt rules to govern the specific
5 areas of compliance history that may be considered in the renewal
6 determination.

7 (e) After an opportunity for a hearing, the commission may
8 deny an application for renewal of a license if the applicant's
9 compliance history reveals conduct that is inconsistent with this
10 chapter or the commission's rules adopted under this chapter in the
11 specific areas considered by the commission in accordance with the
12 rules adopted under Subsection (d).

13 (f) The commission by rule may adopt a system under which
14 licenses expire on various dates during the year. For the year in
15 which the license expiration date is changed, the commission shall
16 prorate license fees on a monthly basis so that each license holder
17 pays only that portion of the license fee that is allocable to the
18 number of months during which the license is valid. On renewal of
19 the license on the new expiration date, the total license renewal
20 fee is payable.

21 SECTION 12. Section 466.160(a), Government Code, is amended
22 to read as follows:

23 (a) The commission may suspend a sales agent's license
24 summarily without notice or hearing if the commission finds that
25 the action is necessary to maintain the integrity, security,
26 honesty, or fairness of the operation or administration of the
27 lottery or to prevent financial loss to the state and:

1 (1) the sales agent fails to deposit money received
2 from ticket sales under Section 466.351;

3 (2) an event occurs that would render the sales agent
4 ineligible for a license under Section 466.155;

5 (3) the sales agent refuses to permit the executive
6 director, the director, the commission, or the state auditor to
7 examine the agent's books, records, papers, or other objects under
8 Section 466.017(b); [~~or~~]

9 (4) the executive director learns the sales agent has
10 failed to disclose information that would, if disclosed, render the
11 sales agent ineligible for a license under Section 466.155; or

12 (5) the sales agent fails on request to provide a
13 complete legible set of fingerprints of a person required to be
14 named in a license application.

15 SECTION 13. Section 466.202(b), Government Code, is amended
16 to read as follows:

17 (b) The [~~executive~~] director may deny an application for a
18 license or the commission may summarily suspend, suspend, or revoke
19 a license if the applicant or sales agent fails on request to
20 provide a complete legible set of fingerprints of a person required
21 to be named in a license application.

22 SECTION 14. The heading to Subchapter G, Chapter 466,
23 Government Code, is amended to read as follows:

24 SUBCHAPTER G. OFFENSES, PENALTIES, AND ENFORCEMENT

25 SECTION 15. Subchapter G, Chapter 466, Government Code, is
26 amended by adding Section 466.318 to read as follows:

27 Sec. 466.318. PROHIBITED VIDEO GAMES. (a) A person commits

1 an offense if the person violates a rule adopted by the commission
2 under Section 466.024(b).

3 (b) An offense under Subsection (a) is a Class B
4 misdemeanor.

5 (c) Venue for prosecution of an offense under Subsection
6 (a), in addition to venue under other law, is in Travis County.

7 (d) A person who violates a rule adopted by the commission
8 under Section 466.024(b) is liable to the state for a civil penalty
9 in an amount not to exceed \$1,000 for each violation. Each act of
10 violation and each day a violation continues is a separate
11 violation for purposes of this subsection.

12 (e) A penalty imposed under Subsection (d) may be recovered
13 by:

14 (1) the county attorney of the county in which the
15 violation occurred; or

16 (2) the attorney general in a suit filed in Travis
17 County.

18 (f) A person who resides or owns real property located
19 within two miles of a place where a violation or threatened
20 violation of a rule adopted by the commission under Section
21 466.024(b) occurs may bring an action to enjoin a person from
22 continuing the violation or threatened violation.

23 (g) Any person may bring a complaint to the commission, the
24 attorney general, or a prosecuting attorney of an alleged or
25 suspected violation of a rule adopted by the commission under
26 Section 466.024(b).

27 SECTION 16. Section 466.353, Government Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) The failure of a sales agent to notify the director that
3 an individual has ceased to be an officer, director, or owner of a
4 sales agent if that notification is required by Section 466.153
5 does not relieve the former officer, director, or owner from
6 liability under Subsection (b), and the individual is liable under
7 Subsection (b) as if the individual were an officer, director, or
8 owner of the sales agent for any liability that accrues before the
9 sales agent notifies the director that the individual is no longer
10 an officer, director, or owner of the sales agent.

11 SECTION 17. Section 466.355, Government Code, is amended by
12 adding Subsection (d) to read as follows:

13 (d) In addition to the amounts allocated by Subsection (b),
14 \$5 million is allocated from the state lottery account in each
15 fiscal biennium to the criminal justice division of the governor's
16 office to provide grants to assist local governments in the
17 prosecution of offenses involving gambling devices as defined by
18 Section 47.01, Penal Code.

19 SECTION 18. Section 466.402, Government Code, is amended by
20 amending Subsection (d) and adding Subsection (e) to read as
21 follows:

22 (d) A person claiming a lottery prize shall disclose to the
23 commission the person's name and social security number or employer
24 identification number. If the person claiming the prize is a legal
25 entity, the person shall disclose all legal and beneficial
26 interests in the entity to the commission by sworn statement in
27 accordance with commission rules. The name of any person who claims

1 a prize or who is identified as having a legal or beneficial
2 interest in a legal entity that claims a prize is public
3 information. A person's name is confidential until a ticket is
4 validated.

5 (e) The state is discharged of all further liability on the
6 payment of a prize under Section 466.403, 466.404, 466.406,
7 466.407, or 466.410 or this section or under any additional
8 procedures established by rule.

9 SECTION 19. Section 466.405(e), Government Code, is amended
10 to read as follows:

11 (e) In this section:

12 (1) "Custodian" and~~["adult," "bank," "custodian,"~~
13 "guardian[,"] ~~["member of a minor's family," and "minor"]~~ have the
14 meanings assigned by Section 141.002, Property Code.

15 (2) "Member of a minor's family" means the minor's
16 parent, stepparent, spouse, grandparent, brother, sister, uncle,
17 or aunt, whether of whole or half blood or by adoption.

18 (3) "Minor" means an individual who is younger than 18
19 years of age.

20 SECTION 20. (a) Section 467.002, Government Code, as
21 amended by Section 1.03, H.B. No. 2455, Acts of the 78th
22 Legislature, Regular Session, 2003, is amended to read as follows:

23 Sec. 467.002. APPLICATION OF SUNSET ACT. The commission is
24 subject to Chapter 325 (Texas Sunset Act). Unless continued in
25 existence as provided by that chapter, the commission is abolished
26 and this chapter, Chapter 466 of this code, and Chapter 2001,
27 Occupations Code, expire ~~[Act expires]~~ September 1, 2015 ~~[2005. In~~

1 ~~the review of the commission by the Sunset Advisory Commission, as~~
2 ~~required by this section, the sunset commission shall limit its~~
3 ~~review to the appropriateness of recommendations made by the sunset~~
4 ~~commission to the 78th Legislature. In the Sunset Advisory~~
5 ~~Commission's report to the 79th Legislature, the sunset commission~~
6 ~~may include any recommendations it considers appropriate].~~

7 (b) Section 466.003(a), Government Code, as amended by
8 Section 1.03, H.B. No. 2455, Acts of the 78th Legislature, Regular
9 Session, 2003, is amended to read as follows:

10 (a) The lottery division is subject to Chapter 325 (Texas
11 Sunset Act). Unless continued in existence as provided by that
12 chapter, the division is abolished and this chapter expires
13 September 1, 2015 [~~2005. In the review of the lottery division by~~
14 ~~the Sunset Advisory Commission, as required by this section, the~~
15 ~~sunset commission shall limit its review to the appropriateness of~~
16 ~~recommendations made by the sunset commission to the 78th~~
17 ~~Legislature. In the Sunset Advisory Commission's report to the~~
18 ~~79th Legislature, the sunset commission may include any~~
19 ~~recommendations it considers appropriate].~~

20 SECTION 21. Section 467.021(b), Government Code, is amended
21 to read as follows:

22 (b) Appointments [~~In making appointments~~] to the commission
23 shall be made without [~~, the governor shall strive to achieve~~
24 ~~representation by all the population groups of the state with]~~
25 regard to the [~~economic status, sex,~~] race, color, disability, sex,
26 religion, age, or national origin of the appointees [~~and~~
27 ~~ethnicity~~].

1 SECTION 22. Section 467.024, Government Code, is amended by
2 adding Subsections (c) and (d) to read as follows:

3 (c) A person may not be a commission employee employed in a
4 "bona fide executive, administrative, or professional capacity,"
5 as that phrase is used for purposes of establishing an exemption to
6 the overtime provisions of the federal Fair Labor Standards Act of
7 1938 (29 U.S.C. Section 201 et seq.), and its subsequent
8 amendments, if:

9 (1) the person is an officer, employee, or paid
10 consultant of a Texas trade association in the field of bingo or
11 lottery; or

12 (2) the person's spouse is an officer, manager, or paid
13 consultant of a Texas trade association in the field of bingo or
14 lottery.

15 (d) A person may not act as the general counsel to the
16 commission if the person is required to register as a lobbyist under
17 Chapter 305 because of the person's activities for compensation on
18 behalf of a profession related to the operation of the commission.

19 SECTION 23. Subchapter B, Chapter 467, Government Code, is
20 amended by adding Section 467.0255 to read as follows:

21 Sec. 467.0255. TRAINING. (a) A person who is appointed to
22 and qualifies for office as a member of the commission may not vote,
23 deliberate, or be counted as a member in attendance at a meeting of
24 the commission until the person completes a training program that
25 complies with this section.

26 (b) The training program must provide the person with
27 information regarding:

- 1 (1) the legislation that created the commission;
2 (2) the programs operated by the commission;
3 (3) the role and functions of the commission;
4 (4) the rules of the commission, with an emphasis on
5 the rules that relate to disciplinary and investigatory authority;
6 (5) the current budget for the commission;
7 (6) the results of the most recent formal audit of the
8 commission;
9 (7) the requirements of:
10 (A) the open meetings law, Chapter 551;
11 (B) the public information law, Chapter 552;
12 (C) the administrative procedure law, Chapter
13 2001; and
14 (D) other laws relating to public officials,
15 including conflict-of-interest laws; and
16 (8) any applicable ethics policies adopted by the
17 commission or the Texas Ethics Commission.

18 (c) A person appointed to the commission is entitled to
19 reimbursement, as provided by the General Appropriations Act, for
20 the travel expenses incurred in attending the training program
21 regardless of whether the attendance at the program occurs before
22 or after the person qualifies for office.

23 SECTION 24. Sections 467.026(a) and (c), Government Code,
24 are amended to read as follows:

25 (a) It is a ground for removal from the [~~The governor may~~
26 ~~remove a~~] commission that a member [~~if the member~~]:

- 27 (1) does not have at the time of taking office

1 ~~[appointment]~~ the qualifications required by Sections 467.023 and
2 467.024 ~~[for appointment to the commission];~~

3 (2) does not maintain during service on the commission
4 the qualifications required by Sections 467.023 and 467.024 ~~[for~~
5 ~~appointment to the commission];~~

6 (3) is ineligible for membership under ~~[violates a~~
7 ~~prohibition established by]~~ Section 467.023, 467.024, or 467.025;

8 (4) cannot discharge the member's duties for a
9 substantial part of the member's term ~~[for which the member is~~
10 ~~appointed]~~ because of illness or disability; or

11 (5) is absent from more than half of the regularly
12 scheduled commission meetings that the member is eligible to attend
13 during a calendar year without an excuse approved ~~[unless the~~
14 ~~absence is excused]~~ by majority vote of the commission.

15 (c) If the executive director ~~[presiding officer]~~ has
16 knowledge that a potential ground for removal exists, the executive
17 director ~~[presiding officer]~~ shall notify the presiding officer of
18 the commission of the potential ground. The presiding officer
19 shall then notify the governor and the attorney general that a
20 potential ground for removal exists. If the potential ground for
21 removal involves the presiding officer, the executive director
22 shall notify the next highest ranking officer of the commission,
23 who shall then notify the governor and the attorney general that a
24 potential ground for removal exists.

25 SECTION 25. Section 467.032, Government Code, is amended to
26 read as follows:

27 Sec. 467.032. EXECUTIVE DIRECTOR AND BINGO OPERATIONS

1 DIRECTOR. (a) The commission shall employ:

2 (1) an executive director to administer this chapter
3 and Chapter 466; and

4 (2) a director of bingo operations to administer this
5 chapter with regard to the bingo division and Chapter 2001,
6 Occupations Code.

7 (b) The executive director and the bingo operations
8 director serve [~~holds office~~] at the will of the commission and are
9 [~~is~~] specifically exempted from Chapter 654.

10 (c) The bingo operations director has broad authority and
11 shall exercise strict control and close supervision over all bingo
12 games conducted in this state to promote and ensure integrity,
13 security, honesty, and fairness in the administration and
14 regulation of bingo [~~executive director or an acting executive~~
15 ~~director shall be appointed by the commission no later than~~
16 ~~November 1, 1993~~].

17 (d) The bingo operations director may contract with or
18 employ a person to perform a function, activity, or service in
19 connection with the administration and regulation of bingo.

20 SECTION 26. Section 467.033, Government Code, is amended to
21 read as follows:

22 Sec. 467.033. DIVISION DIRECTORS. The executive director
23 shall employ a director to oversee each division other than the
24 bingo division. A division director employed under this section
25 serves at the will of the executive director and is specifically
26 exempted from Chapter 654.

27 SECTION 27. Section 467.034, Government Code, is amended to

1 read as follows:

2 Sec. 467.034. EMPLOYEES. (a) The executive director shall
3 employ other personnel, other than the bingo division personnel,
4 necessary to administer the laws under the commission's
5 jurisdiction. Commission personnel employed under this subsection
6 ~~[employees]~~ serve at the will of the executive director.

7 (b) The bingo operations director shall employ personnel to
8 administer Chapter 2001, Occupations Code. The personnel serve at
9 the will of the bingo operations director.

10 (c) The executive director shall employ the personnel that
11 perform services for both the lottery and bingo divisions. The
12 personnel serve at the will of the executive director.

13 SECTION 28. Section 467.035(a), Government Code, is amended
14 to read as follows:

15 (a) The commission may not employ or continue to employ a
16 person who:

17 (1) owns a financial interest in:

18 (A) ~~[(1)]~~ a bingo commercial lessor, bingo
19 distributor, or bingo manufacturer; or

20 (B) ~~[(2)]~~ a lottery sales agency or a lottery
21 operator; or

22 (2) would be denied a license as a sales agent under
23 Section 466.155.

24 SECTION 29. Subchapter B, Chapter 467, Government Code, is
25 amended by adding Sections 467.037-467.040 to read as follows:

26 Sec. 467.037. DIVISION OF RESPONSIBILITIES. The commission
27 shall develop and implement policies that clearly separate the

1 policymaking responsibilities of the commission and the management
2 responsibilities of the executive director and the staff of the
3 commission.

4 Sec. 467.038. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT.

5 (a) The executive director or the executive director's designee
6 shall prepare and maintain a written policy statement that
7 implements a program of equal employment opportunity to ensure that
8 all personnel decisions are made without regard to race, color,
9 disability, sex, religion, age, or national origin.

10 (b) The policy statement must include:

11 (1) personnel policies, including policies relating
12 to recruitment, evaluation, selection, training, and promotion of
13 personnel, that show the intent of the commission to avoid the
14 unlawful employment practices described by Chapter 21, Labor Code;
15 and

16 (2) an analysis of the extent to which the composition
17 of the commission's personnel is in accordance with state and
18 federal law and a description of reasonable methods to achieve
19 compliance with state and federal law.

20 (c) The policy statement must:

21 (1) be updated annually;

22 (2) be reviewed by the state Commission on Human
23 Rights for compliance with Subsection (b)(1); and

24 (3) be filed with the governor's office.

25 Sec. 467.039. REQUIREMENTS AND STANDARDS OF CONDUCT

26 INFORMATION. The executive director or the executive director's

27 designee shall provide to members of the commission and to

1 commission employees, as often as necessary, information regarding
2 the requirements for office or employment under this chapter,
3 including information regarding a person's responsibilities under
4 applicable laws relating to standards of conduct for state officers
5 or employees.

6 Sec. 467.040. STATE EMPLOYEE INCENTIVE PROGRAM
7 INFORMATION. The executive director or the executive director's
8 designee shall provide to commission employees information and
9 training on the benefits and methods of participation in the state
10 employee incentive program.

11 SECTION 30. Subchapter C, Chapter 467, Government Code, is
12 amended by adding Section 467.1015 to read as follows:

13 Sec. 467.1015. COMMISSION EMPLOYEES. The commission or an
14 individual commissioner may employ other personnel as necessary,
15 including executive assistants, to perform the duties of the
16 commission or the duties of the individual commissioner, subject to
17 Chapter 654.

18 SECTION 31. The heading to Section 467.103, Government
19 Code, is amended to read as follows:

20 Sec. 467.103. DUTIES OF EXECUTIVE DIRECTOR AND BINGO
21 OPERATIONS DIRECTOR.

22 SECTION 32. Section 467.103(a), Government Code, is amended
23 to read as follows:

24 (a) The executive director and bingo operations director
25 shall perform all duties required by the commission to administer
26 this chapter and the laws under the commission's jurisdiction. The
27 executive director and bingo operations director may not hold other

1 employment.

2 SECTION 33. Section 467.104(b), Government Code, is amended
3 to read as follows:

4 (b) The executive director shall keep the records of the
5 commission, except that the bingo operations director shall keep
6 the records of the bingo division.

7 SECTION 34. Subchapter C, Chapter 467, Government Code, is
8 amended by adding Section 467.109 to read as follows:

9 Sec. 467.109. INTELLECTUAL PROPERTY. (a) The commission
10 may:

11 (1) acquire, apply for, register, secure, hold,
12 protect, and renew under the laws of this state, another state, the
13 United States or any nation:

14 (A) a patent for the invention or discovery of:

15 (i) any new use of a known process, art,
16 method, machine, manufacture, composition of matter, or material;
17 or

18 (ii) any new and useful improvement on a
19 known process, art, method, machine, manufacture, composition of
20 matter, or material;

21 (B) a copyright of an original work of authorship
22 fixed in any tangible medium of expression, now known or later
23 developed, from which the work may be perceived, reproduced, or
24 otherwise communicated, either directly or with the aid of a
25 machine or device;

26 (C) a trademark, service mark, collective mark,
27 or certification mark for a word, name, symbol, device, or slogan

1 that the commission uses to identify and distinguish the
2 commission's goods and services from other goods and services; and

3 (D) other evidence of protection or exclusivity
4 issued for intellectual property;

5 (2) contract with a person for the reproduction,
6 distribution, public performance, display, advertising, marketing,
7 lease, licensing, sale, use, or other distribution of the
8 commission's intellectual property;

9 (3) obtain under a contract described by Subdivision
10 (2) a royalty, license right, or other appropriate means of
11 securing reasonable compensation for the exercise of rights with
12 respect to the commission's intellectual property; and

13 (4) waive, increase, or reduce the amount of
14 compensation secured by contract under Subdivision (3) if the
15 commission determines that the waiver or reduction will:

16 (A) further a goal or mission of the commission;
17 and

18 (B) result in a net benefit to this state.

19 (b) Intellectual property of the commission is excepted
20 from required disclosure under Chapter 552:

21 (1) beginning on the date the commission decides to
22 seek a patent, copyright, trademark, service mark, collective mark,
23 certification mark, or other evidence of protection of exclusivity
24 concerning the intellectual property; and

25 (2) ending on the date the commission receives a
26 decision about the commission's application for a patent,
27 copyright, trademark, service mark, collective mark, certification

1 mark, or other evidence of protection of exclusivity concerning the
2 intellectual property.

3 (c) The commission may not be required to disclose a trade
4 secret from the time of inception or creation of the trade secret
5 rights until the trade secret is publicly disclosed by the
6 commission with the intention of publicly disclosing the trade
7 secret.

8 (d) Except as provided by Section 2054.115(c), money paid to
9 the commission under this section shall be deposited to the credit
10 of the general revenue fund.

11 SECTION 35. Subchapter C, Chapter 467, Government Code, is
12 amended by adding Sections 467.110-467.113 to read as follows:

13 Sec. 467.110. TECHNOLOGY POLICY. The commission shall
14 develop and implement a policy requiring the executive director and
15 commission employees to research and propose appropriate
16 technological solutions to improve the commission's ability to
17 perform its functions. The technological solutions must:

18 (1) ensure that the public is able to easily find
19 information about the commission on the Internet;

20 (2) ensure that persons who want to use the
21 commission's services are able to:

22 (A) interact with the commission through the
23 Internet; and

24 (B) access any service that can be provided
25 effectively through the Internet; and

26 (3) be cost-effective and developed through the
27 commission's planning processes.

1 Sec. 467.111. NEGOTIATED RULEMAKING AND ALTERNATIVE
2 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and
3 implement a policy to encourage the use of:

4 (1) negotiated rulemaking procedures under Chapter
5 2008 for the adoption of commission rules; and

6 (2) appropriate alternative dispute resolution
7 procedures under Chapter 2009 to assist in the resolution of
8 internal and external disputes under the commission's
9 jurisdiction.

10 (b) The commission's procedures relating to alternative
11 dispute resolution must conform, to the extent possible, to any
12 model guidelines issued by the State Office of Administrative
13 Hearings for the use of alternative dispute resolution by state
14 agencies.

15 (c) The commission shall designate a trained person to:

16 (1) coordinate the implementation of the policy
17 adopted under Subsection (a);

18 (2) serve as a resource for any training needed to
19 implement the procedures for negotiated rulemaking or alternative
20 dispute resolution; and

21 (3) collect data concerning the effectiveness of those
22 procedures, as implemented by the commission.

23 Sec. 467.112. PUBLIC PARTICIPATION. The commission shall
24 develop and implement policies that provide the public with a
25 reasonable opportunity to appear before the commission and to speak
26 on any issue under the jurisdiction of the commission.

27 Sec. 467.113. COMPLAINTS. (a) The commission shall

1 maintain a file on each written complaint filed with the commission
2 or a division of the commission. The file must include:

3 (1) the name of the person who filed the complaint;

4 (2) the date the complaint is received by the
5 commission or a division of the commission;

6 (3) the subject matter of the complaint;

7 (4) the name of each person contacted in relation to
8 the complaint;

9 (5) a summary of the results of the review or
10 investigation of the complaint; and

11 (6) an explanation of the reason the file was closed,
12 if the commission closed the file without taking action other than
13 to investigate the complaint.

14 (b) The commission shall provide to the person filing the
15 complaint and to each person who is a subject of the complaint a
16 copy of the commission's policies and procedures relating to
17 complaint investigation and resolution.

18 (c) The commission, at least quarterly until final
19 disposition of the complaint, shall notify the person filing the
20 complaint and each person who is a subject of the complaint of the
21 status of the investigation unless the notice would jeopardize an
22 undercover investigation.

23 (d) The commission shall publish procedures covering the
24 entire complaint process from submission to disposition.

25 (e) The commission by rule shall require an investigation
26 related to a complaint filed with the commission or a division of
27 the commission to be completed within a reasonable time.

1 (f) The commission shall analyze the complaints filed with
2 the board to identify any trends or issues related to certain
3 violations.

4 SECTION 36. Section 2001.002, Occupations Code, is amended
5 by amending Subdivision (6) and adding Subdivision (9-a) to read as
6 follows:

7 (6) "Bingo occasion" means [~~all activities incident to~~
8 ~~the conduct of a series of bingo games by a licensed authorized~~
9 ~~organization, including~~] the organization's licensed times [~~and~~
10 ~~any preparatory or concluding activities incident to the conduct of~~
11 ~~bingo~~].

12 (9-a) "Electronic pull-tab bingo" means an electronic
13 version of pull-tab bingo that is displayed on a card-minding
14 device in which a person purchases from a point of sale station an
15 electronic ticket face, instead of a ticket made of paper or paper
16 products, that is issued from a finite deal of tickets in which some
17 of the tickets have been designated in advance as winning tickets.
18 The display on the card-minding device may not include images or
19 sounds that resemble spinning wheels or otherwise resemble the
20 display of a slot machine.

21 SECTION 37. Section 2001.054, Occupations Code, is amended
22 to read as follows:

23 Sec. 2001.054. RULEMAKING AUTHORITY. (a) The commission
24 may adopt rules to enforce and administer this chapter.

25 (b) The commission has broad authority to adopt rules and
26 shall exercise strict control to administer and ensure compliance
27 with Sections 2001.409(b) and 2001.4095.

1 SECTION 38. Section 2001.055, Occupations Code, is amended
2 to read as follows:

3 Sec. 2001.055. REGULATION OF GAMES. (a) The commission by
4 rule may establish the number and type of bingo games that may be
5 played during a bingo occasion.

6 (b) The commission, to the extent consistent with this
7 chapter, shall reasonably support the efforts of licensed
8 authorized organizations to develop and offer new types of bingo
9 games.

10 SECTION 39. Subchapter B, Chapter 2001, Occupations Code,
11 is amended by adding Section 2001.0555 to read as follows:

12 Sec. 2001.0555. COMPLIANCE MONITORING. The commission
13 shall adopt rules to govern the commission's monitoring of a
14 license holder to determine if the license holder is in compliance
15 with this chapter or rules adopted under this chapter. The rules
16 must at a minimum address audits and inspections and other
17 compliance and enforcement activities.

18 SECTION 40. Section 2001.057, Occupations Code, is amended
19 by adding Subsections (h) and (i) to read as follows:

20 (h) The committee shall annually develop a work plan
21 detailing the committee's objectives and the issues to be addressed
22 by the committee during the year. The plan must:

23 (1) assess trends in the charitable bingo industry;
24 (2) review bingo rules to determine whether changes,
25 additions, or deletions are needed; and

26 (3) address other issues as determined by the
27 commission.

1 (i) The committee shall perform a review at the end of each
2 year to:

3 (1) assess the committee's accomplishments during the
4 year;

5 (2) identify opportunities for improving the
6 commission's regulation of bingo; and

7 (3) develop specific recommendations for commission
8 action.

9 SECTION 41. Section 2001.059, Occupations Code, as added by
10 Section 2, H.B. No. 2519, Acts of the 78th Legislature, Regular
11 Session, 2003, is amended to read as follows:

12 Sec. 2001.059. ADVISORY OPINIONS. (a) A person may
13 request from the director of bingo operations [~~commission~~] an
14 advisory opinion regarding compliance with this chapter and the
15 rules of the commission relating to the enforcement or
16 administration of this chapter.

17 (b) The director of bingo operations [~~commission~~] shall
18 respond to a request under Subsection (a) not later than the 30th
19 [~~60th~~] day after the date a request is received, unless the director
20 requests an opinion on the matter from the attorney general or
21 [~~commission~~] determines that the request does not contain
22 sufficient facts to provide an answer on which the requestor may
23 rely. In that event, the director [~~commission~~] shall request
24 additional information from the requestor not later than the 10th
25 day after the date the request is received. If the director
26 [~~commission~~] requests additional information, the director
27 [~~commission~~] shall respond to the request not later than the 30th

1 ~~[60th]~~ day after the date additional information is received
2 pursuant to the request for additional information.

3 (c) A person who requests an advisory opinion under
4 Subsection (a) may act in reliance on the opinion in the conduct of
5 any activity under any license issued under this chapter if the
6 conduct is substantially consistent with the opinion and the facts
7 stated in the request.

8 (d) An advisory opinion issued under this section is not a
9 rule under Subchapter B, Chapter 2001, Government Code, and the
10 rulemaking requirements of that subchapter do not apply to a
11 request for an advisory opinion or any advisory opinion issued by
12 the commission.

13 ~~[(c) Nothing in this section precludes the commission from
14 requesting an attorney general opinion under Section 402.042,
15 Government Code. In the event the commission requests an attorney
16 general opinion on a matter that is the subject of an advisory
17 opinion request under this section, the deadlines established under
18 Subsection (b) are tolled until 30 days following the issuance of
19 the attorney general opinion.]~~

20 ~~[(f) The commission may delegate all or part of the
21 authority and procedures for issuing advisory opinions under this
22 section to an employee of the commission.]~~

23 SECTION 42. Section 2001.101, Occupations Code, is amended
24 to read as follows:

25 Sec. 2001.101. AUTHORIZED ORGANIZATION. (a) The
26 commission may license a person who is an authorized organization
27 eligible for a license to conduct bingo if the person has been in

1 existence for the time required by commission rule to ensure the
2 continuity and bona fide nature of the organization and is:

3 (1) a religious society [~~that has existed in this~~
4 ~~state for at least eight years~~];

5 (2) a nonprofit organization:

6 (A) whose predominant activities are for the
7 support of medical research or treatment programs; and

8 (B) that [~~for at least three years~~]:

9 (i) has [~~must have had~~] a governing body or
10 officers elected by a vote of members or by a vote of delegates
11 elected by the members; or

12 (ii) is [~~must have been~~] affiliated with a
13 state or national organization organized to perform the same
14 purposes as the nonprofit organization;

15 (3) a fraternal organization;

16 (4) a veterans organization; or

17 (5) a volunteer fire department.

18 (b) A fraternal organization:

19 (1) [~~must have been organized in this state for at~~
20 ~~least three years~~];

21 [~~(2)~~] must have [~~had during the three-year period~~] a
22 bona fide membership actively and continuously engaged as an
23 organization in furthering its authorized purposes; and

24 (2) [~~(3)~~] may not have authorized a person on behalf
25 of its membership, governing body, or officers to support or oppose
26 a particular candidate for public office by:

27 (A) making political speeches;

- 1 (B) passing out cards or other political
- 2 literature;
- 3 (C) writing letters;
- 4 (D) signing or circulating petitions;
- 5 (E) making campaign contributions; or
- 6 (F) soliciting votes.

7 SECTION 43. Section 2001.102(b), Occupations Code, is
8 amended to read as follows:

9 (b) The application must include:

- 10 (1) the name and address of the applicant;
- 11 (2) the names and addresses of the applicant's
- 12 officers and directors;
- 13 (3) the address of the premises where and the time when
- 14 the applicant intends to conduct bingo under the license sought;
- 15 (4) the name and address of the licensed commercial
- 16 lessor of the premises, if the applicant intends to lease premises
- 17 to conduct bingo from a person other than an authorized
- 18 organization;
- 19 (5) the capacity or potential capacity for public
- 20 assembly in any premises owned or occupied by the applicant;
- 21 (6) the amount of rent to be paid or other
- 22 consideration to be given, directly or indirectly, for each
- 23 occasion for use of the premises of another licensed authorized
- 24 organization or for use of the premises of a licensed commercial
- 25 lessor;
- 26 (7) all other items of expense intended to be incurred
- 27 or paid in connection with conducting, promoting, and administering

1 bingo and the names and addresses of the persons to whom, and the
2 purposes for which, the expenses are to be paid;

3 (8) the specific purposes to and the manner in which
4 the net proceeds of bingo are to be devoted;

5 (9) a statement that the net proceeds of bingo will go
6 to one or more of the authorized charitable purposes under this
7 chapter;

8 (10) a designation of one or more active members of the
9 applicant organization under whom bingo will be conducted
10 accompanied by a statement signed by each designated member stating
11 that the member will be responsible for the conduct of bingo under
12 the terms of the license and this chapter;

13 ~~(11) [a statement that a copy of the application has
14 been sent to the appropriate governing body.]~~

15 [~~(12)~~] the name and address of each person who will
16 work at the proposed bingo occasion, the nature of the work to be
17 performed, and a statement as to whether the person has been
18 convicted of a felony, a gambling offense, criminal fraud, or a
19 crime of moral turpitude; and

20 (12) [~~(13)~~] sufficient facts relating to the
21 applicant's incorporation and organization to enable the
22 commission to determine whether the applicant is an authorized
23 organization.

24 SECTION 44. Section 2001.103(d), Occupations Code, is
25 amended to read as follows:

26 (d) An organization operating under a temporary license is
27 subject to:

1 (1) the taxes and fees authorized or imposed by this
2 chapter; [~~and~~]

3 (2) the standard licensing oversight of the
4 commission, including audits and inspections; and

5 (3) the other provisions of this chapter to the extent
6 they can be made applicable.

7 SECTION 45. Section 2001.105, Occupations Code, is amended
8 by amending Subsection (b) and adding Subsection (d) to read as
9 follows:

10 (b) The commission may not issue a license to an authorized
11 organization to conduct bingo if an officer or director of the
12 organization has been convicted of a felony, criminal fraud, a
13 gambling or gambling-related offense, or a crime of moral turpitude
14 if less than 10 years has elapsed since the termination of a
15 sentence, parole, mandatory supervision, or community supervision
16 served for the offense.

17 (d) The commission may not issue a license to an authorized
18 organization to conduct bingo if the location of the premises at
19 which the authorized organization would conduct bingo is:

20 (1) in a facility that shares a common roof or common
21 foundation with a location at which a gambling device, as defined by
22 Section 47.01, Penal Code, is operated or located; or

23 (2) within 150 feet of the common roof or common
24 foundation described by Subdivision (1).

25 SECTION 46. Chapter 2001, Occupations Code, is amended by
26 adding Subchapter C-1 to read as follows:

27 SUBCHAPTER C-1. AUTHORIZED ORGANIZATION EMPLOYEE LICENSE

1 Sec. 2001.121. LICENSE REQUIRED. An individual may not in
2 any capacity participate or assist in the conduct, promotion, or
3 administration of bingo unless the individual holds an authorized
4 organization employee license issued by the commission.

5 Sec. 2001.122. APPLICATION; ISSUANCE OF LICENSE. The
6 commission shall issue an authorized organization employee license
7 to an eligible individual who applies using an application form
8 prescribed by the commission and pays the applicable license fee.

9 Sec. 2001.123. FEES. The commission by rule shall
10 prescribe a fee schedule for licenses issued under this subchapter.
11 In setting fees under the fee schedule, the commission shall
12 include the cost of a criminal background check.

13 Sec. 2001.124. RENEWAL OF LICENSE. (a) A license issued
14 under this subchapter is valid for a period set by the commission
15 not to exceed 36 months following the date of issuance.

16 (b) A license is renewable on application and payment of the
17 fee in accordance with commission rules.

18 (c) The commission by rule may adopt a system under which
19 licenses expire on various dates during the year. For the year in
20 which the license expiration date is changed, license fees shall be
21 prorated on a monthly basis so that each license holder pays only
22 that portion of the license fee that is allocable to the number of
23 months during which the license is valid. On renewal of the license
24 on the new expiration date, the total license renewal fee is
25 payable.

26 Sec. 2001.125. DENIAL, SUSPENSION, OR REVOCATION OF
27 LICENSE. After a hearing, the director of bingo operations shall

1 deny an application for a license under this subchapter or the
2 commission shall revoke or suspend the license if the director or
3 commission, as applicable, determines that the applicant or license
4 holder:

5 (1) has violated this chapter or a rule adopted by the
6 commission;

7 (2) has been convicted of a felony or of a crime
8 involving moral turpitude;

9 (3) failed to answer or has falsely or incorrectly
10 answered a question in an application for a license under this
11 chapter;

12 (4) is indebted to this state for any fees or for the
13 payment of a penalty imposed by this chapter or commission rule;

14 (5) is not of good moral character;

15 (6) resides in the same household with a person whose
16 license has been revoked for cause within the 12 months immediately
17 preceding the date of submission of the applicant's or license
18 holder's most recent license application;

19 (7) has failed or refused to furnish a true copy of the
20 application to the commission; or

21 (8) is engaged or has engaged in activities or
22 practices that are detrimental to the best interests of the public.

23 Sec. 2001.126. LICENSE NUMBER AND IDENTIFICATION CARD. (a)
24 The commission shall issue to each individual who holds an
25 authorized organization employee license a license number and
26 identification card that includes the individual's photograph.

27 (b) Each license holder must wear the identification card

1 provided by the commission at all times while participating or
2 assisting in the conduct, promotion, or administration of bingo.

3 (c) A license issued under this subchapter is valid at any
4 licensed bingo occasion conducted in this state.

5 Sec. 2001.127. TEMPORARY LICENSE. (a) Pending an
6 investigation of an applicant's eligibility for a license,
7 including renewal of a license, the commission may issue a
8 temporary authorized organization employee license to an applicant
9 whose application appears to comply with this chapter and
10 commission rules and who has paid the necessary fee.

11 (b) A temporary license issued under this section is valid
12 for a period not to exceed 120 days from the date of issuance.

13 Sec. 2001.128. LICENSED AUTHORIZED ORGANIZATION: RECORDS
14 AND PENALTY. (a) A licensed authorized organization shall
15 maintain a record, for each bingo occasion of each individual who
16 participated or assisted in the conduct, promotion, or
17 administration of bingo, that includes:

18 (1) the individual's license number; and

19 (2) the fees or other compensation paid to the
20 individual for services related to the occasion.

21 (b) A licensed authorized organization annually shall
22 submit to the commission, on a form prescribed by the commission, a
23 compensation report that details for the year reported:

24 (1) each job category related to the conduct of bingo
25 for which the organization pays compensation;

26 (2) each compensation rate paid in each job category;

27 and

1 (3) the number of employees paid each compensation
2 rate.

3 (c) The commission shall revoke the license to conduct bingo
4 of a licensed authorized organization that employs or otherwise
5 uses an unlicensed individual in an activity for which a license is
6 required by this subchapter.

7 SECTION 47. Section 2001.152(a), Occupations Code, is
8 amended to read as follows:

9 ~~[(a)]~~ The commission may issue a commercial lessor license
10 ~~[only]~~ to~~+~~

11 ~~[(1) a licensed authorized organization that owns or~~
12 ~~leases a premises where bingo is or will be conducted or an~~
13 ~~association of licensed authorized organizations that jointly own~~
14 ~~or lease premises where bingo is or will be conducted and that the~~
15 ~~organization or association leases or offers for lease to one or~~
16 ~~more other authorized organizations for the conduct of bingo,~~

17 ~~[(2)]~~ a person who leases premises on which bingo is
18 conducted to not more than seven ~~[a single]~~ licensed authorized
19 organizations ~~[organization that subleases or will sublease the~~
20 ~~premises to one or more other licensed authorized organizations for~~
21 ~~the conduct of bingo, or~~

22 ~~[(3) a person who leases premises for the total~~
23 ~~control and exclusive use of only one licensed authorized~~
24 ~~organization as that organization's primary business office].~~

25 SECTION 48. Section 2001.154(a), Occupations Code, is
26 amended to read as follows:

27 (a) The commission may not issue a commercial lessor license

1 to or renew a commercial lessor license of:

2 (1) a person convicted of a felony, criminal fraud, a
3 gambling or gambling-related offense, or a crime of moral turpitude
4 if less than 10 years has elapsed since termination of a sentence,
5 parole, mandatory supervision, or community supervision served for
6 the offense;

7 (2) a public officer who receives any consideration,
8 direct or indirect, as owner or lessor of premises offered for
9 conducting bingo;

10 (3) a person who extends credit to, loans money to, or
11 pays or provides for the payment of license fees for an authorized
12 organization;

13 (4) a distributor or manufacturer;

14 (5) a person in which a person covered by Subdivision
15 (1), (2), (3), or (4) or a person married or related in the first
16 degree by consanguinity or affinity, as determined under Chapter
17 573, Government Code, to one of those persons has greater than a 10
18 percent proprietary, equitable, or credit interest or in which one
19 of those persons is active or employed; or

20 (6) a person whose location for a bingo premises is:

21 (A) in a facility that shares a common roof or
22 common foundation with a location at which a gambling device, as
23 defined by Section 47.01, Penal Code, is operated or located; or

24 (B) within 150 feet of the common roof or common
25 foundation described by Paragraph (A) [~~a foreign corporation or~~
26 ~~other foreign legal entity,~~

27 [~~(7) an individual who is not a resident of this state,~~

1 ~~[(8) a corporation or other legal entity owned or~~
2 ~~controlled by:~~

3 ~~[(A) a foreign corporation, or~~

4 ~~[(B) an individual who is not a resident of this~~
5 ~~state, or~~

6 ~~[(9) a corporation or other legal entity:~~

7 ~~[(A) whose shares are publicly traded, or~~

8 ~~[(B) owned or controlled by a corporation whose~~
9 ~~shares are publicly traded].~~

10 SECTION 49. Section 2001.161, Occupations Code, is amended
11 to read as follows:

12 Sec. 2001.161. LICENSED AUTHORIZED ORGANIZATION AS
13 COMMERCIAL LESSOR. (a) An authorized organization that holds a
14 commercial lessor license to lease a premises on which bingo is
15 conducted may also ~~[must]~~ hold a license to conduct bingo at the
16 same premises.

17 (b) A licensed authorized organization may obtain only one
18 commercial lessor license. The commercial lessor license may be
19 issued only for the same premises where the organization is
20 licensed to conduct bingo.

21 ~~[(c) The commission may issue a commercial lessor license to~~
22 ~~a licensed authorized organization only for the same premises where~~
23 ~~the organization is licensed to conduct bingo.]~~

24 SECTION 50. Subchapter G, Chapter 2001, Occupations Code,
25 is amended by adding Section 2001.3015 to read as follows:

26 Sec. 2001.3015. LICENSING RULES. The commission by rule
27 shall:

1 (1) establish comprehensive qualifications for a
2 person to be licensed or the person's license to be renewed under
3 this chapter;

4 (2) develop a standard license renewal process, from
5 submission to completion, for each license issued under this
6 chapter to ensure that a license holder continues to meet the
7 eligibility requirements provided by this chapter and commission
8 rule; and

9 (3) establish standards of conduct for a person
10 licensed under this chapter.

11 SECTION 51. Section 2001.351, Occupations Code, is amended
12 to read as follows:

13 Sec. 2001.351. DENIAL OF LICENSE. (a) The commission may
14 deny an application for a license or renewal of a license issued
15 under this chapter for a cause that would permit or require the
16 suspension or revocation of a license issued under this chapter.

17 (b) In making a determination whether to renew a license,
18 the commission shall consider the compliance history of a license
19 holder. The commission shall adopt rules to govern the specific
20 areas of compliance history that may be considered in the renewal
21 determination.

22 (c) After an opportunity for a hearing, the commission may
23 deny an application for renewal of a license if the applicant's
24 compliance history reveals conduct that is inconsistent with this
25 chapter or the commission's rules adopted under this chapter in the
26 specific areas considered by the commission in accordance with the
27 rules adopted under Subsection (b).

1 SECTION 52. Subchapter H, Chapter 2001, Occupations Code,
2 is amended by adding Section 2001.358 to read as follows:

3 Sec. 2001.358. SUMMARY SUSPENSION. (a) The commission,
4 through the director of bingo operations, may summarily suspend,
5 without notice or a hearing, a license issued under this chapter if
6 the director finds the action is necessary to prevent financial
7 loss to the state and the license holder has failed to file a report
8 or return or to make a fee or tax payment required by this chapter.

9 (b) To summarily suspend a license under this section, the
10 commission through the director of bingo operations must institute
11 proceedings for a preliminary hearing before the commission or the
12 commission's representative simultaneously with the summary
13 suspension. The preliminary hearing shall be set for a date not
14 later than the 10th day after the date of the summary suspension,
15 unless the parties agree to a later date.

16 (c) At the preliminary hearing, the license holder must show
17 cause why the license should not remain suspended pending a final
18 hearing on suspension or revocation.

19 (d) Chapter 2001, Government Code, does not apply to a
20 summary suspension under this section.

21 (e) To initiate a proceeding to summarily suspend a license,
22 the commission, through the director of bingo operations, must
23 serve notice to the license holder informing the license holder of
24 the right to a preliminary hearing and of the time and place of the
25 preliminary hearing. The notice must:

26 (1) be personally served on the license holder or an
27 officer, employee, or agent of the license holder or be sent by

1 certified or registered mail, return receipt requested, to the
2 license holder's mailing address as it appears in the commission's
3 records; and

4 (2) state the alleged violations that constitute
5 grounds for summary suspension.

6 (f) If notice required under Subsection (e) is served in
7 person, the license holder shall immediately surrender the license
8 to the commission. If notice is served by mail, the license holder
9 shall immediately return the license to the commission.

10 (g) A suspension under this section takes effect on the
11 third day after the date the notice of suspension is given.

12 (h) The commission shall terminate a suspension made under
13 this section when the license holder files all required reports and
14 returns and makes all required tax and fee payments, including
15 payments of interest and penalties that are due.

16 SECTION 53. Section 2001.406(a), Occupations Code, is
17 amended to read as follows:

18 (a) The rent charged by a licensed commercial lessor to a
19 licensed authorized organization to conduct bingo may not exceed
20 \$600 for each bingo occasion conducted on the lessor's premises
21 [~~unless the organization subleases the premises to one or more~~
22 ~~other licensed authorized organizations to conduct bingo, in which~~
23 ~~event the rent charged by the licensed commercial lessor may not~~
24 ~~exceed \$600 for each day].~~

25 SECTION 54. Section 2001.408, Occupations Code, is amended
26 to read as follows:

27 Sec. 2001.408. OTHER METHODS FOR PLAYING BINGO. Subject to

1 the commission's rules, bingo may be played using a pull-tab bingo
2 ticket or an electronic pull-tab bingo ticket.

3 SECTION 55. Section 2001.409, Occupations Code, is amended
4 to read as follows:

5 Sec. 2001.409. CARD-MINDING DEVICES. (a) A person may not
6 use a card-minding device:

7 (1) to generate [~~or determine~~] the random letters,
8 numbers, or other symbols used in playing the bingo card played with
9 the device's assistance;

10 (2) as a receptacle for the deposit of tokens or money
11 in payment for playing the bingo card played with the device's
12 assistance; or

13 (3) as a dispenser for the payment of a bingo prize,
14 including coins, paper currency, or a thing of value for the bingo
15 card played with the device's assistance.

16 (b) A person may use a card-minding device to:

17 (1) account for and track electronic credits purchased
18 at a point of sale station or won by playing bingo or electronic
19 pull-tab bingo; and

20 (2) exchange electronic credits described by
21 Subdivision (1) through an electronic communication with a point of
22 sale station for electronic bingo card faces or electronic pull-tab
23 bingo tickets that may be played by the person during a bingo
24 occasion.

25 SECTION 56. Subchapter I, Chapter 2001, Occupations Code,
26 is amended by adding Section 2001.4095 to read as follows:

27 Sec. 2001.4095. CARD-MINDING DEVICE FOR DISPLAY OF

1 ELECTRONIC PULL-TAB BINGO TICKET FACE. (a) A card-minding device
2 used to display an electronic pull-tab bingo ticket face must be
3 manufactured in accordance with the specifications provided by
4 commission rule and is subject to testing by the commission.

5 (b) The commission may audit sales records relating to the
6 sale of electronic pull-tab bingo ticket faces. The commission may
7 investigate a violation or alleged violation of this section.

8 (c) The commission at any time may inspect a card-minding
9 device used to display an electronic pull-tab bingo ticket face.

10 (d) The manufacturer of a card-minding device used to
11 display an electronic pull-tab bingo ticket face shall maintain a
12 central communications system or facility to provide the commission
13 with the ability to review and audit electronic pull-tab bingo
14 sales records.

15 SECTION 57. Sections 2001.416(c) and (d), Occupations Code,
16 are amended to read as follows:

17 (c) The commission has oversight, including the authority
18 to conduct audits, inspections, and investigations, of a game of
19 chance that is conducted, or a machine or device for conducting a
20 game of chance that is located:

21 (1) on a bingo premises;

22 (2) at a location that shares a common roof or common
23 foundation with a bingo premises; or

24 (3) within 150 feet of the common roof or common
25 foundation described by Subdivision (2).

26 (d) The commission may [~~shall~~] adopt rules for the
27 implementation of this section.

1 ~~[(d) This section does not prohibit the exhibition and play~~
2 ~~of an amusement machine that is not a gambling device as defined by~~
3 ~~Section 47.01, Penal Code.]~~

4 SECTION 58. Section 2001.419, Occupations Code, is amended
5 to read as follows:

6 Sec. 2001.419. BINGO OCCASIONS. (a) ~~[A bingo occasion~~
7 ~~begins when the premises are opened to the public.]~~

8 ~~[(b)]~~ A licensed authorized organization may not conduct
9 more than three [a] bingo occasions ~~[occasion more often than three~~
10 ~~days]~~ during a calendar week and each occasion may not ~~[to]~~ exceed
11 ~~[more than]~~ four hours ~~[during a 24-hour period]~~.

12 (b) [(c)] A licensed authorized organization may conduct
13 two bingo occasions during a 24-hour period under the
14 organization's annual license. No more than two bingo occasions
15 may be conducted at the same premises during one day except that a
16 third bingo occasion may be conducted under a temporary license
17 held by a licensed authorized organization that also conducts
18 licensed occasions under the organization's annual license at that
19 premises.

20 (c) [(d)] ~~No more than two licensed authorized organizations~~
21 ~~may conduct bingo at the same premises during a 24-hour period. If~~
22 ~~two organizations conduct bingo at the same premises during a~~
23 ~~24-hour period, the bingo occasions must be announced separately,~~
24 ~~and an intermission of at least 10 minutes must occur between the~~
25 ~~bingo occasions.~~

26 ~~[(e)]~~ If two licensed authorized organizations are
27 authorized to conduct bingo at the same premises on the same day,

1 the end time of the bingo occasion of one organization may not
2 overlap with the start time of the bingo occasion of the other
3 organization[, ~~but their games must be separated by the~~
4 ~~intermission required under Subsection (d). In that event, the~~
5 ~~intermission is considered part of each organization's bingo~~
6 ~~occasion~~].

7 SECTION 59. Section 2001.420(b), Occupations Code, is
8 amended to read as follows:

9 (b) For bingo games other than pull-tab bingo and electronic
10 pull-tab bingo, a person may not offer or award on a single bingo
11 occasion prizes with an aggregate value of more than \$2,500.

12 SECTION 60. Subchapter I, Chapter 2001, Occupations Code,
13 is amended by adding Section 2001.421 to read as follows:

14 Sec. 2001.421. PRIZE PAYOUT PERCENTAGE. The prize payout
15 percentage for an electronic pull-tab bingo game may not be less
16 than the prize payout percentage established for a paper pull-tab
17 bingo game.

18 SECTION 61. Section 2001.451, Occupations Code, is amended
19 by adding Subsections (g) and (h) to read as follows:

20 (g) The commission shall adopt rules to allow a licensed
21 authorized organization to retain a maximum amount of net proceeds
22 as operating capital in the organization's bingo account. The net
23 proceeds retained may not exceed an amount established by
24 commission rule.

25 (h) The commission by rule shall require a licensed
26 authorized organization to maintain a positive cash flow in the
27 organization's bingo account. The commission shall sanction an

1 organization that fails to comply with the rule.

2 SECTION 62. Sections 2001.457(a), (b), and (d), Occupations
3 Code, are amended to read as follows:

4 (a) Before the end of each quarter, a licensed authorized
5 organization shall disburse for charitable purposes all [~~an amount~~
6 ~~not less than 35 percent~~] of the organization's adjusted gross
7 receipts from the preceding quarter, except for the amount that may
8 be retained as provided by Section 2001.451(g) [~~, less the amount of~~
9 ~~authorized expenses not to exceed six percent of the gross~~
10 ~~receipts~~].

11 (b) The commission shall sanction [~~If~~] a licensed
12 authorized organization that fails to make [~~meet~~] the disbursement
13 required by Subsection (a) or to make any disbursement for
14 charitable purposes [~~requirements of this section~~] for a quarter.
15 The [~~, the~~] commission in applying appropriate sanctions may
16 consider whether, taking into account the amount required to be
17 distributed during that quarter and the three preceding quarters
18 and the charitable distributions for each of those quarters, the
19 organization has distributed a total amount sufficient to have met
20 the disbursement requirements [~~35 percent requirement~~] for that
21 quarter and the three preceding quarters combined.

22 (d) In this section, "adjusted [~~+~~

23 [~~(1) "Adjusted~~] gross receipts" means gross receipts
24 less the total [~~amount of cost of goods purchased by an organization~~
25 ~~and~~] prizes paid in the preceding quarter [~~+~~] and the licensed
26 authorized organization's reasonable and necessary expenses as
27 provided by Sections 2001.458 and 2001.459 and by commission rule.

1 ~~[(2) "Cost of goods purchased by an organization"~~
2 ~~means the cost of bingo paper or pull tab bingo tickets purchased by~~
3 ~~the organization.]~~

4 SECTION 63. Section 2001.458, Occupations Code, is amended
5 by adding Subsection (c) to read as follows:

6 (c) In accordance with this section and Section 2001.459,
7 the commission by rule shall define a licensed authorized
8 organization's reasonable and necessary expenses under this
9 chapter.

10 SECTION 64. Section 2001.459(a), Occupations Code, as
11 amended by Section 23, H.B. No. 2519, Acts of the 78th Legislature,
12 Regular Session, 2003, is amended to read as follows:

13 (a) The following items of expense incurred or paid in
14 connection with the conduct of bingo must be paid from an
15 organization's bingo account:

16 (1) advertising, including the cost of printing bingo
17 gift certificates;

18 (2) security during a bingo occasion;

19 (3) the purchase or repair of bingo supplies and
20 equipment;

21 (4) prizes, other than authorized cash prizes;

22 (5) stated rental expenses;

23 (6) bookkeeping, legal, or accounting services;

24 (7) fees for licensed callers, licensed cashiers, and
25 licensed ushers;

26 (8) janitorial services;

27 (9) license fees; and

1 (10) payment for services provided by a system service
2 provider.

3 SECTION 65. Subchapter K, Chapter 2001, Occupations Code,
4 is amended by adding Section 2001.5015 to read as follows:

5 Sec. 2001.5015. ELECTRONIC PULL-TAB BINGO TAX. (a) A tax
6 is imposed on a manufacturer for each electronic pull-tab bingo
7 ticket provided by the manufacturer to a distributor.

8 (b) The tax rate is one-quarter of one cent for each
9 electronic pull-tab bingo ticket provided.

10 SECTION 66. Section 2001.510(a), Occupations Code, is
11 amended to read as follows:

12 (a) If a license holder fails to make a required return, or
13 if a person conducts bingo without a license, the commission shall
14 make an estimate of the prizes awarded at a bingo occasion, ~~[or of]~~
15 the gross rentals received by a license holder for the rental of
16 premises, or the number of electronic pull-tab bingo tickets sold.
17 The commission shall make the estimate for the period in respect to
18 which the license holder or other person failed to make a return.

19 SECTION 67. Section 2001.511(a), Occupations Code, is
20 amended to read as follows:

21 (a) If the commission believes that the collection of a
22 gross rental tax, tax on electronic pull-tab bingo tickets, or fee
23 on prizes, an amount of the tax or fee on prizes required to be
24 remitted to the state, or the amount of a determination will be
25 jeopardized by delay, the commission shall make a determination of
26 the tax or fee on prizes or amount of the tax or fee required to be
27 collected, noting the finding of jeopardy on the determination.

1 The determined amount is due and payable immediately.

2 SECTION 68. Section 2001.512, Occupations Code, is amended
3 to read as follows:

4 Sec. 2001.512. APPLICATION OF TAX LAWS. (a) Subtitle B,
5 Title 2, Tax Code, applies to the administration, collection, and
6 enforcement of the gross rentals tax imposed under Section
7 2001.501, the tax on electronic pull-tab bingo tickets imposed
8 under Section 2001.5015, and the fee on prizes imposed under
9 Section 2001.502 except as modified by this chapter.

10 (b) In applying the provisions of Subtitle B, Title 2, Tax
11 Code, to the gross rentals tax imposed under Section 2001.501, the
12 tax on electronic pull-tab bingo tickets imposed under Section
13 2001.5015, and the fee on prizes imposed under Section 2001.502
14 only, the fee on prizes is treated as if it were a tax and the powers
15 and duties assigned to the comptroller under that subtitle are
16 assigned to the commission.

17 SECTION 69. Section 2001.513(a), Occupations Code, is
18 amended to read as follows:

19 (a) At any time within three years after a person is
20 delinquent in the payment of an amount of gross rentals tax, tax on
21 electronic pull-tab bingo tickets, or fee on prizes, the commission
22 may collect the amount under this section.

23 SECTION 70. Section 2001.514(a), Occupations Code, is
24 amended to read as follows:

25 (a) To secure payment of the tax on gross rentals, the tax on
26 electronic pull-tab bingo tickets, or the fee on prizes imposed
27 under this subchapter, each license holder shall furnish to the

1 commission:

2 (1) a cash bond;

3 (2) a bond from a surety company chartered or
4 authorized to do business in this state;

5 (3) certificates of deposit;

6 (4) certificates of savings;

7 (5) United States treasury bonds;

8 (6) subject to the approval of the commission, an
9 assignment of negotiable stocks or bonds; or

10 (7) other security as the commission considers
11 sufficient.

12 SECTION 71. Section 2001.551, Occupations Code, is amended
13 by amending Subsection (b) and adding Subsection (g) to read as
14 follows:

15 (b) A person conducting, promoting, or administering bingo
16 commits an offense if the person conducts, promotes, or administers
17 bingo other than:

18 (1) under a license issued under this chapter;

19 (2) within the confines of a home for purposes of
20 amusement or recreation when:

21 (A) no player or other person furnishes anything
22 of more than nominal value for the opportunity to participate;

23 (B) participation in the game does not exceed 15
24 players; and

25 (C) the prizes awarded or to be awarded are
26 nominal;

27 (3) on behalf of an organization of individuals 60

1 years of age or over, a senior citizens' association, a senior
2 citizens' community center program operated or funded by a
3 governmental entity, the patients in a hospital or nursing home,
4 residents of a retirement home, or the patients in a Veteran's
5 Administration medical center or a military hospital, solely for
6 the purpose of amusement and recreation of its members, residents,
7 or patients, when:

8 (A) no player or other person furnishes anything
9 of more than nominal value for the opportunity to participate; and

10 (B) the prizes awarded or to be awarded are
11 nominal; ~~or~~

12 (4) on behalf of a business conducting the game for
13 promotional or advertising purposes if:

14 (A) the game is conducted by or through a
15 newspaper or a radio or television station;

16 (B) participation in the game is open to the
17 general public and is not limited to customers of the business;

18 (C) playing materials are furnished without
19 charge to a person on request; and

20 (D) no player is required to furnish anything of
21 value for the opportunity to participate; or

22 (5) for business entity employee picnics,
23 organizational quarterly or annual meetings, family reunions, or
24 other defined group occasional gatherings if:

25 (A) participation is not open to the public;

26 (B) prizes are of nominal value;

27 (C) there is no cost to participate;

1 (D) the purpose of the game is for amusement,
2 recreation, employee morale, or safety awareness;

3 (E) the game is not used to raise money for any
4 purpose other than to award nominal prizes; and

5 (F) a person is not paid solely to administer the
6 game.

7 (g) The commission by rule may set the nominal value of the
8 prizes that may be awarded in a bingo game described by Subsection
9 (b)(2), (3), or (5).

10 SECTION 72. Sections 2001.554(a) and (b), Occupations Code,
11 are amended to read as follows:

12 (a) A person commits an offense and the person's license is
13 subject to revocation under this chapter if the person:

14 (1) makes a false statement or material omission in an
15 application for a license under this chapter;

16 (2) fails to maintain records that fully and
17 accurately record each transaction connected with the conducting of
18 bingo, the leasing of premises to be used for bingo, or the
19 manufacture, sale, or distribution of bingo supplies or equipment;

20 (3) falsifies or makes a false entry in a book or
21 record if the entry relates to bingo, the disposition of bingo
22 proceeds, the application of rent received by a licensed authorized
23 organization, or the gross receipts from the manufacture, sale, or
24 distribution of bingo supplies or equipment;

25 (4) diverts or pays a portion of the net proceeds of
26 bingo to a person except in furtherance of one or more of the lawful
27 purposes provided by this chapter; [~~or~~]

1 (5) knowingly participates or assists in the conduct,
2 promotion, or administration of bingo without holding a license
3 required under this chapter; or

4 (6) violates this chapter or a term of a license issued
5 under this chapter.

6 (b) An offense under Subsection (a)(1), [~~(a)~~](2), (3), or
7 (6) [~~(5)~~] is a Class A [~~C~~] misdemeanor [~~, unless it is shown on the~~
8 ~~trial of the offense that the person has been convicted previously~~
9 ~~under this section, in which event the offense is a Class B~~
10 ~~misdemeanor~~]. An offense under Subsection (a)(4) or (5) [~~(a)(1) or~~
11 ~~(4)~~] is a felony of the third degree [~~Class A misdemeanor~~]. This
12 subsection does not apply to an offense committed under Section
13 2001.551(b) or Section 2001.552.

14 SECTION 73. Subchapter L, Chapter 2001, Occupations Code,
15 is amended by adding Section 2001.562 to read as follows:

16 Sec. 2001.562. VENUE. The following offenses may be
17 prosecuted in Travis County in addition to any county in which the
18 offense may be prosecuted under Chapter 13, Code of Criminal
19 Procedure, or other law:

20 (1) an offense under this chapter;

21 (2) an offense under the Penal Code, if the accused:

22 (A) is an individual licensed under Subchapter
23 C-1; and

24 (B) is alleged to have committed the offense
25 while participating or assisting in the conduct, promotion, or
26 administration of bingo; and

27 (3) an offense under Title 7 or 11, Penal Code, that

1 involves property consisting of bingo equipment.

2 SECTION 74. Subchapter M, Chapter 2001, Occupations Code,
3 is amended by adding Section 2001.6015 to read as follows:

4 Sec. 2001.6015. ADMINISTRATIVE PENALTY SCHEDULE; TIMELINE.

5 (a) The commission by rule shall adopt an administrative penalty
6 schedule to define and summarize violations of this chapter or
7 commission rules adopted under this chapter to ensure the amounts
8 of penalties imposed are appropriate to the violation.

9 (b) The administrative penalty schedule must:

10 (1) allow deviations from the schedule for mitigating
11 circumstances clearly established by the commission;

12 (2) include a list of the most common violations and
13 the penalty amounts assessed for those violations; and

14 (3) provide the penalty amount in accordance with the
15 seriousness or frequency of each type of violation.

16 (c) The commission by rule shall establish a timeline for
17 the resolution of a violation of this chapter or a commission rule
18 adopted under this chapter. The rules must include:

19 (1) a designated period for a person licensed under
20 this chapter to provide proof of corrective measures taken as
21 required by the commission for a violation of this chapter or a
22 commission rule; and

23 (2) an approach and a designated period for the
24 commission to subsequently monitor a person determined to have
25 committed a significant violation of this chapter or a commission
26 rule.

27 SECTION 75. Chapter 2001, Occupations Code, is amended by

1 adding Subchapter O to read as follows:

2 SUBCHAPTER O. SUBPOENAS AND RELATED PROCEDURES

3 Sec. 2001.701. SUBPOENA. (a) In an investigation of any
4 matter under this chapter, the commission may issue a subpoena to
5 compel the attendance and testimony of a relevant witness or the
6 production of relevant evidence located in this state for
7 inspection or copying by the commission.

8 (b) A subpoena may be served personally or by certified
9 mail.

10 (c) A subpoena may require a person to appear as a witness or
11 to produce evidence at the commission's offices in Austin, Texas,
12 or at another place designated by the commission.

13 (d) The commission may issue a subpoena that requires an
14 immediate production of evidence only if:

15 (1) the subpoena states that the evidence is necessary
16 and must be produced immediately due to exigent and extraordinary
17 circumstances; and

18 (2) the subpoena is signed and issued by a member of
19 the commission and an agent of the commission.

20 (e) The commission shall adopt rules to avoid imposing an
21 undue burden or expense on a person for whom a subpoena is issued.

22 (f) The commission by rule may delegate the authority
23 granted under Subsection (a) to an agent of the commission.

24 (g) The fee charged by a sheriff or constable for serving a
25 commission subpoena may not exceed the fee for serving similar
26 subpoenas.

27 (h) In the issuance of a subpoena under this section for the

1 records of a religious society, the commission may subpoena only
2 the portion of the records related to bingo.

3 Sec. 2001.702. FAILURE TO COMPLY WITH SUBPOENA. (a) If a
4 person fails to comply with a subpoena issued by the commission, the
5 commission, acting through the attorney general, may file suit
6 against the person to enforce the subpoena in a district court in
7 Travis County.

8 (b) On finding that good cause exists for issuing the
9 subpoena, the court shall order the person to comply with the
10 subpoena and pay reasonable attorney's fees. The court may punish a
11 person who fails to obey the court order for contempt of court.

12 Sec. 2001.703. REIMBURSEMENT FOR SUBPOENA COMPLIANCE. A
13 person required by a subpoena to attend a proceeding before the
14 commission or its agent is entitled to:

15 (1) reimbursement for mileage in the same amount for
16 each mile as the mileage travel allowance for a state employee for
17 the person's travel to or from the place where the person's
18 attendance is required, if the place is more than 25 miles from the
19 person's place of residence; and

20 (2) a fee for each day or part of a day the person is
21 required to be present as a witness that is equal to the greater of:

22 (A) \$10; or

23 (B) the general per diem travel allowance for a
24 state employee traveling within this state.

25 Sec. 2001.704. OUT-OF-STATE EVIDENCE. (a) A person in
26 possession or control of evidence located outside this state on
27 request of the commission may make the evidence available for

1 examination at the place where the evidence is located. The
2 commission may designate a representative, including an official of
3 the state in which the evidence is located, to examine the evidence
4 for the commission.

5 (b) The commission on request of an official of another
6 state or of the United States may examine evidence located in this
7 state for that official in circumstances similar to those described
8 by Subsection (a).

9 Sec. 2001.705. ACCESS TO EVIDENCE. (a) Evidence acquired
10 under a commission subpoena is not a public record for the period
11 the commission or its agent determines is reasonably necessary to:

12 (1) complete an investigation;

13 (2) protect the person being investigated from
14 unwarranted injury; or

15 (3) serve the public interest.

16 (b) The evidence is not subject to a subpoena, other than a
17 grand jury subpoena, until:

18 (1) the evidence is released by the commission for
19 public inspection; or

20 (2) after notice and a hearing, a district court
21 determines that complying with the subpoena would not jeopardize
22 the public interest or any investigation by the commission.

23 (c) Except for good cause, a district court order under
24 Subsection (b)(2) does not apply to:

25 (1) any communication received by the commission from
26 a law enforcement agency or another regulatory agency; or

27 (2) any internal commission communication made in

1 connection with a matter that the commission has the authority to
2 consider.

3 Sec. 2001.706. PRIVILEGED AND CONFIDENTIAL INFORMATION.

4 (a) Any information or evidence produced under a commission
5 subpoena that is otherwise privileged or confidential by law
6 remains privileged or confidential until admitted into evidence in
7 an administrative hearing or a court.

8 (b) The commission may issue a protective order relating to
9 the confidentiality or privilege of information or evidence
10 described by Subsection (a) to restrict the use or distribution of
11 the information or evidence:

12 (1) by any person; or

13 (2) in a proceeding other than a proceeding before the
14 commission.

15 Sec. 2001.707. COOPERATION WITH LAW ENFORCEMENT. On
16 request, the commission may furnish evidence obtained under a
17 commission subpoena to:

18 (1) a law enforcement agency of this state, another
19 state, or the United States; or

20 (2) a prosecuting attorney of a municipality, county,
21 or judicial district of this state, another state, or the United
22 States.

23 Sec. 2001.708. SUBPOENAS ISSUED TO FINANCIAL INSTITUTIONS.

24 A subpoena issued to a financial institution as part of a criminal
25 investigation is not subject to Section 30.007, Civil Practice and
26 Remedies Code.

27 Sec. 2001.709. EFFECT ON CONTESTED CASE. Sections

1 2001.701, 2001.704, 2001.705, 2001.707, and 2001.708 do not affect
2 the conduct of a contested case under Chapter 2001, Government
3 Code.

4 SECTION 76. Section 466.003, Government Code, and Sections
5 2001.057(b), 2001.152(b) and (c), 2001.305, 2001.313, 2001.314,
6 2001.355, and 2001.356, Occupations Code, are repealed.

7 SECTION 77. The TexasOnline Authority and the Texas Lottery
8 Commission shall study the fiscal and administrative impact of
9 offering lottery retail sales via Internet-based PIN debit
10 transaction. The study findings shall be reported to the
11 legislature not later than December 15, 2003.

12 SECTION 78. (a) Not later than September 1, 2004, the
13 Texas Lottery Commission shall:

14 (1) adopt the rules and procedures required by Section
15 466.1005, Government Code, and Subchapter C-1, Chapter 2001,
16 Occupations Code, as added by this Act; and

17 (2) adopt the rules required by:

18 (A) Section 466.158(d), Government Code, as
19 added by this Act;

20 (B) Section 2001.3015, Occupations Code, as
21 added by this Act; and

22 (C) Sections 2001.101, 2001.451, and 2001.458,
23 Occupations Code, as amended by this Act.

24 (b) Not later than September 1, 2004, the Texas Lottery
25 Commission shall:

26 (1) adopt the comprehensive business plan required by
27 Section 466.027, Government Code, as added by this Act;

1 (2) adopt the rules required by Section 2001.0555,
2 Occupations Code, as added by this Act; and

3 (3) adopt the administrative penalty schedule and
4 timeline required by Section 2001.6015, Occupations Code, as added
5 by this Act.

6 (c) The Texas Lottery Commission shall adopt rules to
7 administer electronic pull-tab bingo and regulate electronic
8 pull-tab card-minding devices under Chapter 2001, Occupations
9 Code, as amended by this Act, not later than December 1, 2003, and
10 may adopt the initial rules in the manner provided by law for
11 emergency rules.

12 SECTION 79. (a) The changes in law made by this Act in the
13 prohibitions or qualifications applying to a member of the Texas
14 Lottery Commission do not affect the entitlement of a member
15 serving on the Texas Lottery Commission immediately before November
16 1, 2003, to continue to serve and function as a member of the Texas
17 Lottery Commission for the remainder of the member's term. Those
18 changes in law apply only to a member appointed on or after November
19 1, 2003.

20 (b) The change in law made by this Act to Chapter 467,
21 Government Code, relating to the investigation of a complaint
22 applies only to a complaint filed with the Texas Lottery Commission
23 on or after November 1, 2003. A complaint filed with the commission
24 or a division of the commission before November 1, 2003, is governed
25 by the law as it existed immediately before that date, and the
26 former law is continued in effect for that purpose.

27 (c) The change in law made by this Act requiring the Texas

1 Lottery Commission to approve a procurement applies only to a
2 procurement or contract made on or after the effective date of this
3 Act. A procurement or contract made before the effective date of
4 this Act is governed by the law in effect when the procurement or
5 contract was made, and the former law is continued in effect for
6 that purpose.

7 (d) The changes in law made by this Act governing
8 eligibility of a person for a license apply only to the issuance or
9 renewal of a license by the Texas Lottery Commission under Chapter
10 466, Government Code, as amended by this Act, or Chapter 2001,
11 Occupations Code, as amended by this Act, on or after the effective
12 date of this Act. A license issued by the Texas Lottery Commission
13 under either of those laws before the effective date of this Act is
14 governed by the applicable licensing requirements in effect when
15 the license was last issued or renewed until the license expires or
16 is renewed as provided by Chapter 466, Government Code, as amended
17 by this Act, or Chapter 2001, Occupations Code, as amended by this
18 Act.

19 (e) The change in law made by this Act to Section 2001.457,
20 Occupations Code, applies to the charitable disbursements made by a
21 licensed authorized organization beginning with disbursements for
22 the second quarter of 2004. A charitable disbursement made by a
23 licensed authorized organization for a quarter before the second
24 quarter of 2004 is governed by the law in effect immediately before
25 the effective date of this Act, and the former law is continued in
26 effect for that purpose.

27 SECTION 80. This Act takes effect November 1, 2003.