

By: Flores

H.B. No. 2439

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation and administration of the state lottery,
3 including authorizing the Texas Lottery Commission to offer video
4 lottery; providing penalties.

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

6 SECTION 1. Section 466.002(10), Government Code, is amended
7 to read as follows:

8 (10) "Ticket" means any tangible evidence issued to
9 provide participation in a lottery game authorized by this chapter,
10 including a video lottery game under Subchapter J.

11 SECTION 2. Section 466.014(b), Government Code, is amended
12 to read as follows:

13 (b) The executive director may contract with or employ a
14 person to perform a function, activity, or service in connection
15 with the operation of the lottery as prescribed by the executive
16 director. A person with whom the executive director contracts to
17 operate a lottery, provide the central communications system for
18 video lottery under Subchapter J, or be a video lottery technology
19 provider must be eligible for a sales agent license under Section
20 466.155.

21 SECTION 3. Section 466.017(b), Government Code, is amended
22 to read as follows:

23 (b) The records of a [Each] lottery operator, video lottery
24 central communications system provider, video lottery technology

1 provider, video lottery retailer, or [operator's and] sales agent
2 [agent's records] are subject to audit by the commission and the
3 state auditor. For the purpose of carrying out this chapter, the
4 executive director or state auditor may examine all books, records,
5 papers, or other objects that the executive director or state
6 auditor determines are necessary for conducting a complete
7 examination under this chapter and may also examine under oath any
8 officer, director, or employee of a lottery operator or sales
9 agent. The executive director or state auditor may conduct an
10 examination at the principal office or any other office of the
11 lottery operator, video lottery central communications system
12 provider, video lottery technology provider, video lottery
13 retailer, or sales agent or may require the lottery operator, video
14 lottery central communications system provider, video lottery
15 technology provider, video lottery retailer, or sales agent to
16 produce the records at the office of the commission or state
17 auditor. If a sales agent refuses to permit an examination or to
18 answer any question authorized by this subsection, the executive
19 director may summarily suspend the license of the sales agent under
20 Section 466.160 until the examination is completed as required.
21 Section 321.013(h) does not apply to an audit of a lottery operator,
22 video lottery central communications system provider, video
23 lottery technology provider, video lottery retailer, or sales
24 agent.

25 SECTION 4. Section 466.018, Government Code, is amended to
26 read as follows:

27 Sec. 466.018. INVESTIGATIONS. The attorney general, the

1 district attorney for Travis County, or the district attorney,
2 criminal district attorney, or county attorney performing the
3 duties of district attorney for the county in which the violation or
4 alleged violation occurred may investigate a violation or alleged
5 violation of this chapter and of the penal laws of this state by the
6 commission or its employees, a sales agent, a lottery vendor, [~~or~~] a
7 lottery operator, a video lottery central communications system
8 provider, a video lottery technology provider, or a video lottery
9 retailer.

10 SECTION 5. Sections 466.020(c) and (e), Government Code,
11 are amended to read as follows:

12 (c) A security officer or investigator employed by the
13 department of security or a peace officer who is working in
14 conjunction with the commission or the Department of Public Safety
15 in the enforcement of this chapter, without a search warrant, may
16 search and seize a lottery vending machine, lottery computer
17 terminal, video lottery terminal, or other lottery equipment that
18 is located on premises for which a person holds a sales agent
19 license or video lottery retailer license issued under this
20 chapter.

21 (e) At least once every two years, the executive director
22 shall employ an independent firm that is experienced in security,
23 including computer security and systems security, to conduct a
24 comprehensive study of all aspects of lottery security, including:

- 25 (1) lottery personnel security;
26 (2) sales agent security;
27 (3) lottery operator and vendor security;

1 (4) security against ticket counterfeiting and
2 alteration and other means of fraudulent winning;

3 (5) security of lottery drawings;

4 (6) lottery computer, data communications, database,
5 and systems security;

6 (7) lottery premises and warehouse security;

7 (8) security of distribution of tickets;

8 (9) security of validation and payment procedures;

9 (10) security involving unclaimed prizes;

10 (11) security aspects of each lottery game;

11 (12) security against the deliberate placement of
12 winning tickets in lottery games that involve preprinted winning
13 tickets by persons involved in the production, storage,
14 transportation, or distribution of tickets; ~~and~~

15 (13) security involving the video lottery central
16 communications system provider, video lottery technology
17 providers, and video lottery retailers; and

18 (14) other security aspects of lottery operations.

19 SECTION 6. Section 466.024(c), Government Code, is amended
20 to read as follows:

21 (c) In this section, "sports[+

22 ~~["(1) "Sports]~~ event" means a football, basketball,
23 baseball, or similar game, or a horse or dog race on which
24 pari-mutuel wagering is allowed.

25 ~~["(2) "Video lottery machine" or "machine" means any~~
26 ~~electronic video game machine that, upon insertion of cash, is~~
27 ~~available to play or simulate the play of a video game, including~~

1 ~~video poker, keno, and blackjack, using a video display and~~
2 ~~microprocessors in which the player may receive free games or~~
3 ~~credits that can be redeemed for cash, coins, or tokens, or that~~
4 ~~directly dispenses cash, coins, or tokens.]~~

5 SECTION 7. Section 466.155(a), Government Code, is amended
6 to read as follows:

7 (a) After a hearing, the director shall deny an application
8 for a license or the commission shall suspend or revoke a license if
9 the director or commission, as applicable, finds that the applicant
10 or sales agent:

11 (1) is an individual who:

12 (A) has been convicted of a felony, criminal
13 fraud, gambling or a gambling-related offense, or a misdemeanor
14 involving moral turpitude, if less than 10 years has elapsed since
15 the termination of the sentence, parole, mandatory supervision, or
16 probation served for the offense;

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

18 (C) is married to an individual:

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

20 (ii) who is currently delinquent in the
21 payment of any state tax;

22 (D) is an officer or employee of the commission
23 or a lottery operator; or

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

27 (2) is not an individual, and an individual described

1 in Subdivision (1):

2 (A) is an officer or director of the applicant or
3 sales agent;

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

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

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

11 (E) is the owner or lessee of a business that the
12 applicant or sales agent conducts or through which the applicant
13 will conduct a ticket sales agency;

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

16 (G) participates in managing the affairs of the
17 applicant or sales agent;

18 (3) has been finally determined to be:

19 (A) delinquent in the payment of a tax or other
20 money collected by the comptroller, the Texas Workforce Commission,
21 or the Texas Alcoholic Beverage Commission;

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

24 (C) in default on a loan guaranteed under Chapter
25 57, Education Code;

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

27 (A) a location licensed for games of bingo under

1 Chapter 2001, Occupations Code; or

2 (B) on land that is owned by:

3 (i) this state; or

4 (ii) a political subdivision of this state
5 and on which is located a public primary or secondary school, an
6 institution of higher education, or an agency of the state; or

7 [~~(C) a location for which a person holds a wine
8 and beer retailer's permit, mixed beverage permit, mixed beverage
9 late hours permit, private club registration permit, or private
10 club late hours permit issued under Chapter 25, 28, 29, 32, or 33,
11 Alcoholic Beverage Code; or]~~

12 (5) has violated this chapter or a rule adopted under
13 this chapter.

14 SECTION 8. Subchapter G, Chapter 466, Government Code, is
15 amended by adding Section 466.318 to read as follows:

16 Sec. 466.318. SALE OF VIDEO LOTTERY GAME TO PERSON YOUNGER
17 THAN 18 YEARS OF AGE. (a) A video lottery retailer or an employee
18 of a video lottery retailer commits an offense if the person
19 intentionally or knowingly:

20 (1) sells or offers to sell a play of a video lottery
21 game to an individual the person knows is younger than 18 years of
22 age or permits the individual to purchase a play of a video lottery
23 game; or

24 (2) pays money or issues a video credit slip as
25 winnings for a play of a video lottery game to an individual the
26 person knows is younger than 18 years of age.

27 (b) An individual who is younger than 18 years of age

1 commits an offense if the individual:

2 (1) purchases a play of a video lottery game;

3 (2) accepts money or a video credit slip as payment of
4 winnings for a play of a video lottery game; or

5 (3) falsely represents the individual to be 18 years
6 of age or older by displaying evidence of age that is false or
7 fraudulent or misrepresents in any way the individual's age in
8 order to purchase a play of a video lottery game.

9 (c) An offense under Subsection (a) is a Class C
10 misdemeanor.

11 (d) An offense under Subsection (b) is a misdemeanor
12 punishable by a fine not to exceed \$250.

13 SECTION 9. Chapter 466, Government Code, is amended by
14 adding Subchapter J to read as follows:

15 SUBCHAPTER J. VIDEO LOTTERY

16 Sec. 466.501. DEFINITIONS. In this subchapter:

17 (1) "Licensed video lottery retailer" means a
18 pari-mutuel license holder that holds a video lottery retailer
19 license under Subchapter J.

20 (2) "Net terminal income" means the total amount of
21 money paid to play video lottery games less the value of all credits
22 redeemed for money by the players of video lottery games.

23 (3) "Pari-mutuel license holder" means a person
24 licensed to conduct wagering on a greyhound race or a horse race
25 under the Texas Racing Act (Article 179e, Vernon's Texas Civil
26 Statutes).

27 (4) "Racetrack" has the meaning assigned by Section

1 1.03, Texas Racing Act (Article 179e, Vernon's Texas Civil
2 Statutes).

3 (5) "Video lottery game" means a single turn or
4 opportunity to play a video game on a video lottery terminal.

5 (6) "Video lottery terminal" means any electronic
6 computerized video game machine that:

7 (A) uses a video display and microprocessors;

8 (B) on the insertion of money or other
9 representation of value approved by the commission, is available to
10 play a video game; and

11 (C) provides the player with an opportunity to
12 receive free games or credits that may be redeemed for money.

13 (7) "Video lottery technology provider" means a person
14 that designs, manufactures, installs, operates, distributes, or
15 supplies for sale or use in this state a video lottery terminal or
16 related equipment.

17 Sec. 466.502. AUTHORITY TO OPERATE VIDEO LOTTERIES. (a)
18 Notwithstanding any other law, the commission may conduct video
19 lottery games in accordance with this subchapter.

20 (b) A video lottery terminal used to conduct video lottery
21 games on behalf of the commission may be installed and operated only
22 at a racetrack in existence on January 1, 2003, that is a licensed
23 video lottery retailer.

24 Sec. 466.503. RULES. The commission shall adopt rules for
25 the licensing of video lottery retailers and other rules necessary
26 to conduct video lottery games and administer this subchapter.

27 Sec. 466.504. VIDEO LOTTERY TECHNOLOGY PROVIDER CONTRACTS.

1 (a) The commission may award a contract to a person with equipment
2 and technology that are compatible with the central communications
3 system established under this subchapter to provide video lottery
4 terminals and services to licensed video lottery retailers. In
5 making a decision to award a contract to a technology provider, the
6 commission must consider:

7 (1) the experience of the provider in performing
8 comparable projects;

9 (2) the financial stability of the provider;

10 (3) the technical and management abilities of the
11 provider;

12 (4) the quality of the provider's product and service
13 capabilities;

14 (5) the likelihood of timely performance by the
15 provider;

16 (6) the maximum revenue generation;

17 (7) the license holder's eligibility under Section
18 466.155; and

19 (8) any other factors relevant to the performance of
20 the contract.

21 (b) A contract awarded to a technology provider under this
22 section must comply with the contract requirements of this chapter
23 and commission rule.

24 (c) At the expense of the technology provider, the
25 commission may use an independent testing laboratory to determine
26 whether a technology provider's system is compatible with the
27 central communications system.

1 Sec. 466.505. ADDITIONAL POWERS AND DUTIES OF COMMISSION.

2 To administer this subchapter, the commission shall:

3 (1) adopt accounting procedures to determine net
4 terminal income and procedures to handle unclaimed prizes and
5 credits;

6 (2) determine the type of video lottery games that may
7 be conducted;

8 (3) determine the amount a player may be charged to
9 play each video lottery game and the prizes or credits that may be
10 awarded;

11 (4) establish financial reporting procedures for a
12 licensed video lottery retailer;

13 (5) establish control procedures for video lottery
14 retailers that become insolvent;

15 (6) determine the insurance and bonding requirements
16 for:

17 (A) a licensed video lottery retailer; and

18 (B) a video lottery technology provider;

19 (7) establish the licensing requirements for a
20 licensed video lottery retailer;

21 (8) contract with persons to be video lottery
22 technology providers; and

23 (9) contract with a person to provide the central
24 communications system.

25 Sec. 466.506. CENTRAL COMMUNICATIONS SYSTEM. (a) The
26 commission shall select a person to establish a central
27 communications system to link all video lottery terminals operated

1 on behalf of the commission under this subchapter to provide the
2 auditing and other information required by the commission. The
3 person selected must provide all computer hardware and software
4 necessary to implement and operate the system.

5 (b) The central communications system provider selected by
6 the commission may not limit participation in this state's video
7 lottery to only one manufacturer of video lottery machines through:

8 (1) the high costs that a manufacturer would incur to
9 implement the program modifications necessary to communicate or
10 link with the system; or

11 (2) the inability of video lottery machines of more
12 than one manufacturer to communicate or link with the system.

13 (c) The central communications system provider may not sell
14 or distribute video lottery terminals in this state.

15 Sec. 466.507. VIDEO LOTTERY RETAILERS. Except as otherwise
16 provided by this subchapter or commission rule, the provisions
17 governing the licensing, renewal, denial, suspension, and
18 revocation of a sales agent license under Subchapter D and the
19 criminal history investigations under Subchapter E apply to a video
20 lottery retailer.

21 Sec. 466.508. EXECUTIVE DIRECTOR DUTIES. The executive
22 director shall:

23 (1) supervise and administer the operation of video
24 lottery games in accordance with this chapter and commission rules;
25 and

26 (2) enter into contracts for the operation of a video
27 lottery central communications system and with persons to act as

1 video lottery technology providers.

2 Sec. 466.509. VIDEO LOTTERY GAMES. A video lottery
3 retailer may offer video lottery games approved by the commission
4 at the retailer's racetrack at times when the retailer is not
5 conducting a pari-mutuel event.

6 Sec. 466.510. DIVISION OF REVENUE. (a) The net terminal
7 income derived from video lottery games shall be distributed as
8 follows:

9 (1) a portion shall be retained by the licensed video
10 lottery retailer in an amount equal to:

11 (A) 31 percent in the fiscal year ending August
12 31, 2004;

13 (B) 30.5 percent in the fiscal year ending August
14 31, 2005;

15 (C) 30 percent in the fiscal year ending August
16 31, 2006;

17 (D) 29.5 percent in the fiscal year ending August
18 31, 2007; and

19 (E) 29 percent in the fiscal year ending August
20 31, 2008, and in each subsequent fiscal year;

21 (2) a portion shall be paid to each video lottery
22 technology provider in an amount equal to 11 percent of the net
23 terminal income of the video lottery terminals provided by the
24 technology provider, less a reasonable fee paid to the central
25 communications system provider for the implementation,
26 maintenance, and operation of the system; and

27 (3) the remainder shall be deposited to the credit of

1 the state lottery account in the general revenue fund.

2 (b) The commission shall set the fee paid to the central
3 communications system provider under Subsection (a)(3) at an amount
4 not to exceed two and one-half percent of the net terminal income.

5 (c) A video lottery retailer shall transfer all unclaimed
6 prizes and credits to the commission to be used for future prizes.

7 (d) The amounts deposited under this section to the state
8 lottery account are subject to Section 466.355.

9 Sec. 466.511. PENALTY FOR MANIPULATION OR TAMPERING. (a) A
10 person commits an offense if the person intentionally or knowingly
11 manipulates the outcome of a video lottery game, the amount of a
12 video lottery game prize, or the operation of a video lottery
13 terminal by physical, electronic, or other means.

14 (b) An offense under this section is a felony of the third
15 degree.

16 Sec. 466.512. PRIZE EXEMPT FROM TAXATION. A prize received
17 under this subchapter is exempt from taxation as provided by
18 Section 466.004.

19 Sec. 466.513. APPLICABILITY OF OTHER LAW AND LOCAL
20 ORDINANCES. (a) This chapter and Chapter 467 govern the operation
21 and administration of video lottery under this subchapter to the
22 extent not in conflict with this subchapter.

23 (b) To the extent of any conflict, the provisions of this
24 subchapter prevail over any other law or a local ordinance.

25 (c) A local option election under Article 16, Texas Racing
26 Act (Article 179e, Vernon's Texas Civil Statutes), does not apply
27 to video lottery operated in accordance with this subchapter.

1 SECTION 10. Section 467.035(a), Government Code, is amended
2 to read as follows:

3 (a) The commission may not employ or continue to employ a
4 person who owns a financial interest in:

5 (1) a bingo commercial lessor, bingo distributor, or
6 bingo manufacturer; ~~[or]~~

7 (2) a lottery sales agency or a lottery operator; or

8 (3) a video lottery central communications system
9 provider, video lottery technology provider, or video lottery
10 retailer.

11 SECTION 11. Section 47.09, Penal Code, is amended by adding
12 Subsection (c) to read as follows:

13 (c) Subsection (a)(3) applies to a person manufacturing,
14 possessing, or operating a gambling device with the authorization
15 of the Texas Lottery Commission under Subchapter J, Chapter 466,
16 Government Code.

17 SECTION 12. Chapter 47, Penal Code, is amended by adding
18 Section 47.095 to read as follows:

19 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
20 a defense to prosecution under this chapter that a person sells,
21 leases, transports, possesses, stores, or manufactures a gambling
22 device with the authorization of the Texas Lottery Commission under
23 Subchapter J, Chapter 466, Government Code, for transportation in
24 interstate or foreign commerce.

25 SECTION 13. Section 466.024(b), Government Code, is
26 repealed.

27 SECTION 14. (a) As soon as practicable after the effective

1 date of this Act, the Texas Lottery Commission shall adopt the rules
2 necessary to implement video lottery in accordance with Subchapter
3 J, Chapter 466, Government Code, as added by this Act.

4 (b) The Texas Lottery Commission may adopt an emergency rule
5 under Subsection (a) of this section without prior notice or
6 hearing, or with any abbreviated notice and hearing as the
7 commission finds practicable, for the implementation of the change
8 in law made by this Act. Section 2001.034, Government Code, does
9 not apply to an emergency rule adopted under this section.

10 (c) To promptly implement Subchapter J, Chapter 466,
11 Government Code, as added by this Act, a contract for the
12 acquisition or provision of facilities, supplies, equipment,
13 materials, or services related to the initial operation of video
14 lottery under that subchapter is not subject to:

- 15 (1) Subtitle D, Title 10, Government Code;
- 16 (2) Section 466.101, Government Code;
- 17 (3) Chapter 2161, Government Code; or
- 18 (4) any competitive bidding requirements or contract
19 requirements provided by any other law or by rules of the Texas
20 Lottery Commission.

21 SECTION 15. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate
25 effect, this Act takes effect September 1, 2003.