

By: Armbrister

S.B. No. 1244

A BILL TO BE ENTITLED

AN ACT

relating to operation of video lottery machines at racetracks.

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

SECTION 1. Section 466.002, Government Code, is amended by amending Subdivisions (5), (8), and (9), and adding Subdivisions (11), (12), (13), and (14) to read as follows:

(5) "Lottery means the procedures operated by the state under this Act through which prizes are awarded or distributed by chance among persons who have paid, or unconditionally agreed to pay, for a chance or other opportunity to receive a prize and includes all procedures associated with the operation of video lottery games.

(8) "Player" means a person who contributes any part of the consideration for a ticket or for a video lottery game.

(9) "Sales agent" or "sales agency" means a person licensed under this Act to sell lottery tickets or to operate video lottery game machines.

(11) "Video lottery game" means a lottery game approved by the commission and conducted with or played on a video lottery machine, or a network of video lottery machines, that are connected to a central computer system operated by the commission.

(12) "Video lottery agent" means a sales agent or sales agency licensed to operate a video lottery game on behalf of the state at a racetrack licensed under Article 179e, Vernon's

1 Annotated Texas Civil Statutes.

2 (13) "Video lottery machine manufacturer" means a  
3 person licensed by the commission to manufacture video lottery  
4 machines.

5 (14) "Central computer system" means a central  
6 computer operated by the commission that each video lottery machine  
7 can communicate with to transmit auditing program information and  
8 that can be used for the activation and disabling of video lottery  
9 machines.

10 SECTION 2. Section 466.024, Government Code, is amended to  
11 read as follows:

12 Sec. 466.024. Prohibited Games. (a) The executive  
13 director or a lottery operator may not establish or operate a  
14 lottery game in which the winner is chosen on the basis of the  
15 outcome of a sports event.

16 (b) The commission shall adopt rules prohibiting the  
17 operation of any game using a video lottery machine or machine other  
18 than a video lottery game as defined in section 466.002.

19 (c) In this section:

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

23 (2) "Video lottery machine" or "machine" means any  
24 electronic video game machine that, upon insertion of cash, is  
25 available to play or simulate the play of a video game, including  
26 video poker, keno, and blackjack, using a video display and  
27 microprocessors in which the player may receive free games or

1 credits that can be redeemed for cash, coins, or tokens or that  
2 directly dispenses cash, coins, or tokens.

3 SECTION 3. Section 466.155(a), Government Code, is amended  
4 to read as follows:

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

9 (1) is an individual who:

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

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

16 (C) is married to an individual:

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

18 (ii) who is currently delinquent in the  
19 payment of any state tax;

20 (D) is an officer or employee of the commission  
21 or a lottery operator; or

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

25 (2) is not an individual, and an individual described  
26 in Subdivision (1):

27 (A) is an officer or director of the applicant or

1 sales agent;

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

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

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

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

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

14 (G) participates in managing the affairs of the  
15 applicant or sales agent;

16 (3) has been finally determined to be:

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

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

22 (C) in default on a loan guaranteed under Chapter  
23 57, Education Code;

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

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

27 (B) on land that is owned by:

1 (i) this state; or

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

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

10 (D) if the application is for a video lottery  
11 agent, a racetrack licensed after January 1, 2003; or

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

14 SECTION 4. Section 3.021, Texas Racing Act (Article 179e,  
15 Vernon's Annotated Texas Civil Statutes) is amended by adding  
16 Section 3.021(e) to read as follows:

17 (a) Any provision in this Act to the contrary  
18 notwithstanding, the commission may license and regulate all  
19 aspects of greyhound racing and horse racing in this state, whether  
20 or not that racing involves pari-mutuel wagering.

21 (b) To protect the health, safety, and welfare of race  
22 animals and participants in racing, to safeguard the interest of  
23 the general public, and to promote the orderly conduct of racing  
24 within the state, the commission may adopt rules for the licensing  
25 and regulation of races and workouts at racetracks that do not offer  
26 pari-mutuel wagering and for workouts at training facilities to  
27 secure past performances and workouts.

1 (c) The commission may charge an annual fee for licensing  
2 and regulating a racetrack that does not offer pari-mutuel wagering  
3 or a training facility in a reasonable amount that may not exceed  
4 the actual cost of enforcing rules adopted for the licensing and  
5 regulation of races and workouts at such a facility.

6 (d) The commission may not adopt rules restricting  
7 competitive bidding or advertising by a licensee except to prohibit  
8 false, misleading, or deceptive practices. In its rules to  
9 prohibit false, misleading, or deceptive practices, the commission  
10 may not include a rule that:

11 (1) restricts the use of any medium for advertising;

12 (2) restricts the use of a licensee's personal  
13 appearance or voice in an advertisement;

14 (3) relates to the size or duration of an  
15 advertisement by the licensee; or

16 (4) restricts the licensee's advertisement under a  
17 trade name.

18 (e) The commission may license and regulate all aspects of  
19 the video lottery agents at racetracks in this state. In doing so,  
20 the commission shall coordinate with the Texas Lottery Commission  
21 to ensure no duplication of regulations. The commission may charge  
22 a reasonable fee, as determined by rule, for regulating video  
23 lottery agents at racetracks.

24 SECTION 5. Article 6, Texas Racing Act (Article 179e,  
25 Vernon's Annotated Texas Civil Statutes) is amended by adding  
26 Section 6.011 to read as follows:

27 Sec. 6.011. LICENSE REQUIRED FOR VIDEO LOTTERY. (a) A

1 person may not operate a video lottery game in this state without  
2 obtaining a video lottery agent license from the commission.

3 (b) The commission shall issue a license to operate a video  
4 lottery game to an applicant in good standing with the commission  
5 that holds a racetrack license issued by the commission on or before  
6 January 1, 2003.

7 (c) The commission may adopt rules and charge fees to  
8 implement this section.

9 SECTION 6. Article 6, Texas Racing Act (Article 179e,  
10 Vernon's Annotated Texas Civil Statutes) is amended by adding  
11 Section 6.095 to read as follows:

12 Sec. 6.095. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT HORSE  
13 TRACKS. All proceeds, net of proceeds returned to players and the  
14 state, shall be allocated between the horse racetrack and horse  
15 purses pursuant to an agreement between the horse racetrack and the  
16 officially recognized horsemen's organization.

17 SECTION 7. Article 6, Texas Racing Act (Article 179e,  
18 Vernon's Annotated Texas Civil Statutes) is amended by adding  
19 Section 6.096 to read as follows:

20 Sec. 6.096. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT  
21 GREYHOUND RACETRACKS. All proceeds, net of proceeds returned to  
22 players and the state, shall be allocated between the greyhound  
23 racetrack and greyhound purses pursuant to an agreement between the  
24 greyhound racetrack and the official state greyhound breed  
25 registry.

26 SECTION 8. Article 8, Texas Racing Act (Article 179e,  
27 Vernon's Annotated Texas Civil Statutes) is amended by adding

1 Section 8.01(a) and (b) to read as follows:

2 (a) The commission shall allocate the live and simulcast  
3 racing days for the conduct of live and simulcast racing at each  
4 racetrack licensed under this Act. Each racetrack shall accord  
5 reasonable access to races for all breeds of horses as determined by  
6 the racetrack through negotiations with the representative state  
7 breed registry with the final approval of the commission. In  
8 granting approval, the commission shall consider the factors of  
9 availability of competitive horses, economic feasibility, and  
10 public interest. In allocating race dates under this section, the  
11 commission shall consider live race dates separately from simulcast  
12 race dates. The commission may prohibit Sunday racing unless the  
13 prohibition would conflict with another provision of this Act.

14 (b) A racetrack that is licensed as a video lottery agent  
15 may not offer for pari-mutuel wagering fewer live racing  
16 opportunities or simulcast days than the number of live racing  
17 opportunities conducted and simulcast days offered during the  
18 calendar year preceding the year this Act takes effect, unless  
19 otherwise agreed by mutual agreement by the affected parties.

20 SECTION 9. Section 47.01(4), Penal Code, is amended to read  
21 as follows:

22 (4) "Gambling device" means any electronic,  
23 electromechanical, or mechanical contrivance not excluded under  
24 Paragraph (B) or the State Lottery Act (Chapter 466, Government  
25 Code) that for a consideration affords the player an opportunity to  
26 obtain anything of value, the award of which is determined solely or  
27 partially by chance, even though accompanied by some skill, whether



1 or not the prize is automatically paid by the contrivance. The  
2 term:

3 (A) includes, but is not limited to, gambling  
4 device versions of bingo, keno, blackjack, lottery, roulette, video  
5 poker, or similar electronic, electromechanical, or mechanical  
6 games, or facsimiles thereof, that operate by chance or partially  
7 so, that as a result of the play or operation of the game award  
8 credits or free games, and that record the number of free games or  
9 credits so awarded and the cancellation or removal of the free games  
10 or credits; and

11 (B) does not include any electronic,  
12 electromechanical, or mechanical contrivance designed, made, and  
13 adapted solely for bona fide amusement purposes if the contrivance  
14 rewards the player exclusively with noncash merchandise prizes,  
15 toys, or novelties, or a representation of value redeemable for  
16 those items, that have a wholesale value available from a single  
17 play of the game or device of not more than 10 times the amount  
18 charged to play the game or device once or \$5, whichever is less.

19 SECTION 10. Section 47.06, Penal Code, is amended by  
20 amending Subdivision (d) to read as follows:

21 (d) It is a defense to prosecution under Subsections (a) and  
22 (c) that:

23 (1) the device, equipment, or paraphernalia is used  
24 for or is intended for use in gambling that is to occur entirely in a  
25 private place;

26 (2) a person involved in the gambling does not receive  
27 any economic benefit other than personal winnings; ~~and~~

1           (3) except for the advantage of skill or luck, the  
2 chance of winning is the same for all participants; and

3           (4) the device, equipment or paraphernalia is used  
4 pursuant to a license issued under the State Lottery Act (Chapter  
5 466, Government Code).

6           SECTION 11. This Act takes effect September 1, 2003.