

By: Armbrister

S.B. No. 46

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the state to operate video lottery at racetracks, to the operation of video lottery by certain Indian tribes, and to the authority of the Texas Lottery Commission; providing penalties.

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

SECTION 1. Section 466.002, Government Code, is amended by amending Subdivisions (2) through (10) and adding Subdivisions (11) through (36) to read as follows:

(2) "Communication technology" means the methods used and the components employed to facilitate the transmission of information, including transmission and reception systems that transmit information through wire, cable, radio, microwave, light, optics, or computer data networks.

(3) "Director" means a [the] director employed by the executive director under Section 467.033 [of the division].

(4) "Disable," with respect to a video lottery terminal, means the process that causes the video lottery terminal to cease functioning on issuance of a shutdown command from the video lottery central system.

(5) "Distribute," with respect to a video lottery terminal, an electronic computer component of a video lottery terminal, the cabinet in which a video lottery terminal is housed, video lottery equipment, or video lottery game software intended

1 for use or play in this state, including on Indian lands in this  
2 state, means the sale, lease, marketing, offer, or other  
3 disposition of any of those items.

4 (6) [~~(3)~~] "Division" means the lottery division  
5 established by the commission under Chapter 467.

6 (7) "Electronic storage medium," with respect to video  
7 lottery, means the electronic medium on which the operation  
8 software for a game playable on a video lottery terminal is stored  
9 in the form of erasable programmable read only memory, compact  
10 disc-read only memory, flash random access memory, or other  
11 technology medium the commission approves for use in a video  
12 lottery terminal.

13 (8) [~~(4)~~] "Executive director" means the executive  
14 director of the commission.

15 (9) "Gaming agreement" means an agreement authorized  
16 under Subchapter K between this state and a federally recognized  
17 Indian tribe under which this state allows the tribe to conduct  
18 limited gaming activities authorized under this chapter or  
19 applicable federal law.

20 (10) "House-banked game" means a game of chance in  
21 which:

22 (A) the house plays as a participant;  
23 (B) the house competes against all players,  
24 collects from all losers, and pays all winners; and

25 (C) the house has an opportunity to win.

26 (11) "Indian lands" means:

27 (A) land located within an Indian reservation and

1 occupied by an Indian tribe on January 1, 1998; and

2 (B) land occupied by an Indian tribe on January  
3 1, 1998, over which an Indian tribe exercises governmental power  
4 and the title to which is:

5 (i) held in trust by the United States for  
6 the benefit of an Indian tribe or individual member of an Indian  
7 tribe; or

8 (ii) held by an Indian tribe or an  
9 individual member of an Indian tribe and subject to restriction by  
10 the United States against alienation.

11 (12) "Institutional investor" means:

12 (A) a state or federal government pension plan;  
13 or

14 (B) any of the following that meets the  
15 requirements of a "qualified institutional buyer" as defined in 17  
16 C.F.R. Section 230.144A, adopted as Rule 144A by the United States  
17 Securities and Exchange Commission under the Securities Act of 1933  
18 (15 U.S.C. Section 77a et seq.), and the rules and regulations  
19 adopted under that rule by the United States Securities and  
20 Exchange Commission:

21 (i) a bank as defined by Section 3(a)(6),  
22 Securities Exchange Act of 1934 (15 U.S.C. Section 78c(a)(6)), and  
23 the rules and regulations adopted under that act by the United  
24 States Securities and Exchange Commission;

25 (ii) an insurance company as defined by  
26 Section 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section  
27 80a-2(a)(17));

1                    (iii) an investment company registered  
2 under Section 8, Investment Company Act of 1940 (15 U.S.C. Section  
3 80a-8);

4                    (iv) an employee benefit plan or pension  
5 fund subject to the Employee Retirement Income Security Act of 1974  
6 (29 U.S.C. Section 1001 et seq.), excluding an employee benefit  
7 plan or pension fund sponsored by a publicly traded corporation  
8 registered with the United States Securities and Exchange  
9 Commission;

10                   (v) a group composed entirely of persons  
11 specified by this subdivision; or

12                   (vi) any other person the commission  
13 recognizes as an institutional investor for reasons consistent with  
14 the policies expressed in this chapter.

15                   (13) [(5)] "Lottery" means the state lottery  
16 established and operated in accordance with the Texas Constitution  
17 under this chapter and includes the operation of a state-controlled  
18 video lottery system ~~[procedures operated by the state under this~~  
19 ~~chapter through which prizes are awarded or distributed by chance~~  
20 ~~among persons who have paid, or unconditionally agreed to pay, for a~~  
21 ~~chance or other opportunity to receive a prize].~~

22                   (14) [(6)] "Lottery game" means an activity conducted  
23 lawfully and in accordance with the Texas Constitution and this  
24 chapter that is controlled by this state as part of the lottery and  
25 through which prizes are awarded or distributed by chance to  
26 persons who have paid or unconditionally agreed to pay, or who  
27 otherwise participate in a game, for a chance or other opportunity

1 to receive a prize [~~includes a lottery activity~~].

2           (15) [~~(7)~~] "Lottery operator" means a person selected  
3 under Section 466.014(b) to operate a lottery game.

4           (16) "Manufacture," with respect to a video lottery  
5 terminal, an electronic computer component of a video lottery  
6 terminal, the cabinet in which a video lottery terminal is housed,  
7 video lottery equipment, or video lottery game software intended  
8 for use or play in this state, including on Indian lands in this  
9 state, means to design, assemble, fabricate, produce, program, or  
10 make modifications to any of those items.

11           (17) "Net terminal income" means the total amount of  
12 money paid to play video lottery games less the value of all credits  
13 redeemed, including any progressive prizes and bonuses, by the  
14 players of the video lottery games. Promotional prizes unrelated  
15 to video lottery game wagers that are offered by a video lottery  
16 retailer or video lottery manager may not be deducted or otherwise  
17 considered credits redeemed for money by players for the purpose of  
18 determining net terminal income.

19           (18) "Pari-mutuel license holder" means a person  
20 licensed to conduct wagering on a greyhound race or a horse race  
21 under the Texas Racing Act (Article 179e, Vernon's Texas Civil  
22 Statutes).

23           (19) "Person" means, for purposes of video lottery  
24 operations, any natural person, corporation, association, trust,  
25 partnership, limited partnership, joint venture, subsidiary, or  
26 other entity, regardless of its form, structure, or nature.

27           (20) [~~(8)~~] "Player" means a person who contributes any

1 part of the consideration for a ticket or to play a video lottery  
2 game under this chapter.

3 (21) "Racetrack" means a racetrack as defined by  
4 Section 1.03(25), Texas Racing Act (Article 179e, Vernon's Texas  
5 Civil Statutes).

6 (22) [~~49~~] "Sales agent" or "sales agency" means a  
7 person licensed under this chapter to sell tickets.

8 (23) "Slot machine" means a mechanical, electrical, or  
9 other type of device, contrivance, or machine not connected to the  
10 video lottery central system that plays or operates on insertion of  
11 a coin, currency, token, or similar object or on payment of any  
12 other consideration, and the play or operation of which, through  
13 the skill of the operator, by chance, or both, may deliver to the  
14 person playing or operating the machine, or entitle the person to  
15 receive, cash, premiums, merchandise, tokens, or any other thing of  
16 value, whether the payoff is made automatically from the machine or  
17 in any other manner. The term does not include any equipment,  
18 machine, technological aid, or other device used or authorized in  
19 connection with the play of bingo under Chapter 2001, Occupations  
20 Code.

21 (24) "Substantial interest holder" means any of the  
22 following that is not a bona fide lender, bank, or other authorized  
23 or licensed lending institution that holds a mortgage or other lien  
24 acquired in the ordinary course of business or a vendor of the  
25 applicant or license holder that is not otherwise a substantial  
26 business holder:

27 (A) a person who directly, indirectly, or

1 beneficially owns any interest in a privately owned corporation,  
2 association, trust, partnership, limited partnership, joint  
3 venture, subsidiary, or other entity, regardless of its form,  
4 structure, or nature;

5 (B) a person who directly, indirectly, or  
6 beneficially owns 10 percent or more of any publicly owned  
7 corporation, association, trust, partnership, limited partnership,  
8 joint venture, subsidiary, or other entity, regardless of its form,  
9 structure, or nature;

10 (C) a person associated with an applicant or  
11 license holder who the commission determines has the power or  
12 authority to:

13 (i) control the activities of the applicant  
14 or license holder; or

15 (ii) elect or select the executive  
16 director, the managers, the partners, or a majority of the board of  
17 directors of the applicant or license holder; and

18 (D) any key personnel of a video lottery retailer  
19 or video lottery manager, including an executive director, officer,  
20 director, manager, member, partner, limited partner, executive,  
21 employee, or agent, who the commission determines has the power to  
22 exercise significant influence over decisions concerning any part  
23 of the applicant's or license holder's business operation.

24 (25) [~~(10)~~] "Ticket" means any tangible evidence  
25 issued to provide participation in a lottery game authorized by  
26 this chapter other than a video lottery game.

27 (26) "Video lottery central system" means the system

1 of procedures and facilities operated and controlled by the  
2 commission that is designed to link together all video lottery  
3 terminals operated in this state and allows the commission to  
4 continuously monitor the activity of each video lottery terminal  
5 and to disable any video lottery terminal in this state.

6 (27) "Video lottery central system provider" means a  
7 person that, under a contract with the commission, provides the  
8 video lottery central system.

9 (28) "Video lottery equipment" means:

10 (A) a video lottery terminal;

11 (B) equipment, a component, or a contrivance used  
12 remotely or directly in connection with a video lottery terminal  
13 to:

14 (i) affect the reporting of gross revenue  
15 and other accounting information, including a device for weighing  
16 and counting money;

17 (ii) provide accounting, player tracking,  
18 bonuses and inhouse or wide-area progressive prizes;

19 (iii) monitor video lottery terminal  
20 operations; and

21 (iv) provide for the connection of video  
22 lottery terminals to the video lottery central system; or

23 (C) any other communications technology or  
24 equipment necessary for the operation of a video lottery terminal.

25 (29) "Video lottery game" means an electronically  
26 simulated game displayed on a video lottery terminal the outcome of  
27 which is determined solely by chance based on a computer-generated

1 random selection of winning combinations of symbols or numbers  
2 other than roulette, dice, or baccarat game themes associated with  
3 casino gambling, except that game themes displaying symbols that  
4 appear to roll on drums to simulate a classic casino slot machine or  
5 themes of other card games and keno may be used.

6 (30) "Video lottery manager" means a person who:

7 (A) is licensed by the commission under this  
8 chapter to manage a video lottery terminal establishment at a  
9 racetrack; or

10 (B) provides management services for a video  
11 lottery terminal establishment on Indian lands.

12 (31) "Video lottery retailer" means a racetrack or the  
13 premises of a pari-mutuel license holder at which a video lottery  
14 terminal establishment is located and that holds a video lottery  
15 retailer license under Subchapter K.

16 (32) "Video lottery system" means a state-controlled  
17 lottery system under which individuals may play lottery games of  
18 chance on video lottery terminals owned and operated by persons  
19 licensed or otherwise authorized by this state in order to generate  
20 revenue for public purposes.

21 (33) "Video lottery terminal" means an interactive  
22 electronic device that is capable of displaying video lottery  
23 games.

24 (34) "Video lottery terminal establishment" means  
25 premises at which the operation of video lottery terminals is  
26 authorized by the commission under this chapter in accordance with  
27 a license or a gaming agreement.

1           (35) "Video lottery terminal provider" means a person  
2 in the business of manufacturing or distributing video lottery  
3 terminals in this state.

4           (36) "Video lottery ticket" means the tangible  
5 evidence issued by a video lottery terminal to reflect winnings  
6 from the play of a video lottery game.

7           SECTION 2. Section 466.003, Government Code, is amended by  
8 amending Subsection (b) and adding Subsection (c) to read as  
9 follows:

10           (b) Any [A] contract or authorized agreement between the  
11 division and a lottery operator, the video lottery central system  
12 provider, a video lottery terminal provider, or a manufacturer or  
13 distributor of video lottery games under Section 466.014(b) must  
14 contain a provision allowing the contract or authorized agreement  
15 to be terminated without penalty should the division be abolished  
16 unless another state agency is assigned to regulate all video  
17 lottery game activity as required by this chapter.

18           (c) Notwithstanding Subsection (a), if any gaming agreement  
19 that allows video lottery is in effect, the commission or another  
20 state agency designated by the legislature must regulate video  
21 lottery games as necessary to comply with a gaming agreement under  
22 this chapter.

23           SECTION 3. Subsection (a), Section 466.004, Government  
24 Code, is amended to read as follows:

25           (a) A political subdivision of this state may not impose:

26               (1) a tax on the sale of a ticket;

27               (2) a tax on the payment of a prize under this chapter;

1   ~~[or]~~

2                   (3)   an ad valorem tax on tickets;

3                   (4)   a tax, fee, or other assessment on consideration  
4 paid to play a video lottery game; or

5                   (5)   a tax or fee for attendance or admission to a video  
6 lottery terminal establishment or a racetrack at which a video  
7 lottery terminal establishment is located unless specifically  
8 authorized by statute.

9           SECTION 4.   Section 466.014, Government Code, is amended to  
10 read as follows:

11           Sec. 466.014.   POWERS AND DUTIES OF COMMISSION AND EXECUTIVE  
12 DIRECTOR; CONTRACT AUTHORITY.   (a)   The commission and executive  
13 director have broad authority and shall exercise strict control and  
14 close supervision over ~~[all]~~ lottery games ~~[conducted in this~~  
15 ~~state]~~ to promote and ensure integrity, security, honesty, and  
16 fairness in the operation and administration of the lottery.

17           (b)   The executive director may contract with or employ a  
18 person to perform a function, activity, or service in connection  
19 with the operation of the lottery as prescribed by the executive  
20 director.   A contract relating to the operation of video lottery  
21 must be consistent with Subchapter K.   Except as provided by this  
22 subsection, a [A] person with whom the executive director contracts  
23 to operate a lottery game must be eligible for a sales agent license  
24 under Section 466.155.   A person with whom the executive director  
25 contracts to provide the video lottery central system must be  
26 eligible under the same standards as those applicable to the  
27 registration or approval by the commission of a video lottery

1 terminal provider in accordance with Subchapter K.

2 (c) The executive director may award a contract for lottery  
3 supplies, equipment, or services, including a contract under  
4 Subsection (b), pending the completion of any investigation and  
5 licensing, registration, or other approval authorized or required  
6 by this chapter. A contract awarded under this subsection must  
7 include a provision permitting the executive director to terminate  
8 the contract without penalty if the investigation reveals that the  
9 person to whom the contract is awarded would not be eligible for a  
10 sales agent license under Section 466.155 or, with regard to video  
11 lottery, does not satisfy the applicable requirements for  
12 licensing, registration, or other approval under Subchapter K.

13 (d) In the acquisition or provision of facilities,  
14 supplies, equipment, materials, or services related to the  
15 implementation of video lottery, the commission is exempt from:

16 (1) procurement procedures prescribed under:

17 (A) Subtitle D, Title 10; and

18 (B) Section 466.101; and

19 (2) any bidding or contract requirements provided by  
20 any other law or by commission rules.

21 (e) Subsection (d) and this subsection expire January 1,  
22 2008.

23 SECTION 5. Subsection (b), Section 466.015, Government  
24 Code, is amended to read as follows:

25 (b) The commission shall adopt rules to the extent they are  
26 not inconsistent with Chapters 551 and 552 governing the:

27 (1) security for the lottery and the commission,

1 including the development of an internal security plan;

2 (2) apportionment of the total revenues from the sale  
3 of tickets and from all other sources in the amounts provided by  
4 this chapter;

5 (3) enforcement of prohibitions on the sale of tickets  
6 to or by an individual younger than 18 years of age or the sale of a  
7 video lottery game to or by an individual younger than 21 years of  
8 age; [and]

9 (4) enforcement of prohibitions on a person playing a  
10 lottery game by telephone; and

11 (5) enforcement of prohibitions provided by law on the  
12 sale of any purchase or play of a video lottery game.

13 SECTION 6. Section 466.017, Government Code, is amended to  
14 read as follows:

15 Sec. 466.017. AUDITS. (a) The commission [~~executive~~  
16 ~~director~~] shall provide for a certified public accountant to  
17 conduct an independent audit of the commission's annual financial  
18 statements in accordance with generally accepted auditing  
19 standards that requires the accountant to express an opinion on the  
20 conformity of the financial statements with generally accepted  
21 accounting principles [~~for each fiscal year of all accounts and~~  
22 ~~transactions of the lottery~~]. The certified public accountant may  
23 not have [~~as determined by the executive director,~~] a significant  
24 financial interest in a sales agent, lottery vendor, [~~or~~] lottery  
25 operator, video lottery manager, video lottery retailer, video  
26 lottery terminal provider, or video lottery central system  
27 provider. The certified public accountant shall present an audit

1 report to the executive director, the commission, the governor, the  
 2 comptroller, and the legislature not later than the 30th day after  
 3 the submission date for the annual financial report required by the  
 4 General Appropriations Act. ~~[The report must contain~~  
 5 ~~recommendations to enhance the earnings capability of the lottery~~  
 6 ~~and improve the efficiency of lottery operations.]~~ The state  
 7 auditor may review the results of and working papers related to the  
 8 audit.

9 (b) The records of a ~~[Each]~~ lottery operator, sales agent,  
 10 video lottery manager, video lottery retailer, video lottery  
 11 terminal provider, or video lottery central system provider  
 12 ~~[operator's and sales agent's records]~~ are subject to audit by the  
 13 commission and the state auditor. For the purpose of carrying out  
 14 this chapter, the executive director or state auditor may examine  
 15 all books, records, papers, or other objects that the executive  
 16 director or state auditor determines are necessary for conducting a  
 17 complete examination under this chapter and may also examine under  
 18 oath any officer, director, or employee of a lottery operator, ~~[or]~~  
 19 sales agent, video lottery manager, video lottery retailer, video  
 20 lottery terminal provider, or video lottery central system  
 21 provider. The executive director or state auditor may conduct an  
 22 examination at the principal office or any other office of the  
 23 person subject to the audit ~~[lottery operator or sales agent]~~ or may  
 24 require the person ~~[lottery operator or sales agent]~~ to produce the  
 25 records at the office of the commission or state auditor. If a  
 26 sales agent, video lottery manager, video lottery retailer, video  
 27 lottery terminal provider, or video lottery central system provider

refuses to permit an examination or to answer any question authorized by this subsection, the executive director may summarily suspend the license or registration of the sales agent, video lottery manager, video lottery retailer, or video lottery terminal provider under Section 466.160 or Subchapter K until the examination is completed as required. Section 321.013(h) does not apply to an audit of a lottery operator, ~~[or]~~ sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider.

SECTION 7. Section 466.018, Government Code, is amended to read as follows:

Sec. 466.018. INVESTIGATIONS. The attorney general, the district attorney for Travis County, or the district attorney, criminal district attorney, or county attorney performing the duties of district attorney for the county in which the violation or alleged violation occurred may investigate a violation or alleged violation of this chapter and of the penal laws of this state by the commission or its employees, a sales agent, a lottery vendor, ~~[or]~~ a lottery operator, a video lottery manager, a video lottery retailer, a video lottery terminal provider, or a video lottery central system provider.

SECTION 8. Subsections (c), (d), and (e), Section 466.020, Government Code, are amended to read as follows:

(c) A security officer or investigator employed by the department of security or a peace officer who is working in conjunction with the commission or the Department of Public Safety in the enforcement of this chapter may:

1           (1) ~~[7]~~ without a search warrant, ~~[may]~~ search and  
2   seize a lottery vending machine, lottery computer terminal, video  
3   lottery terminal, or other lottery or gaming equipment that is  
4   located on premises for which a person holds a sales agent, video  
5   lottery retailer, or video lottery manager license issued under  
6   this chapter; or

7           (2) seize a lottery vending machine, lottery computer  
8   terminal, video lottery terminal, or other lottery or gaming  
9   equipment that is being used or is in the possession of any person  
10 in violation of this chapter.

11          (d) The Department of Public Safety or any other state or  
12 local law enforcement agency in this state, at the commission's  
13 request and in accordance with an interagency agreement, shall  
14 perform a full criminal background investigation of a prospective  
15 deputy or investigator of the department of security. The  
16 commission shall reimburse the agency ~~[Department of Public Safety]~~  
17 for the actual costs of an investigation.

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

- 22           (1) lottery personnel security;
- 23           (2) sales agent security;
- 24           (3) lottery operator and vendor security;
- 25           (4) security against ticket counterfeiting and  
26 alteration and other means of fraudulent winning;
- 27           (5) security of lottery drawings;

- 1           (6) lottery computer, data communications, database,  
2 and systems security;
- 3           (7) lottery premises and warehouse security;
- 4           (8) security of distribution of tickets;
- 5           (9) security of validation and payment procedures;
- 6           (10) security involving unclaimed prizes;
- 7           (11) security aspects of each lottery game;
- 8           (12) security against the deliberate placement of  
9 winning tickets in lottery games that involve preprinted winning  
10 tickets by persons involved in the production, storage,  
11 transportation, or distribution of tickets; ~~and~~
- 12           (13) security of video lottery retailers, video  
13 lottery managers, video lottery terminal providers, and video  
14 lottery central system providers; and
- 15           (14) other security aspects of lottery operations,  
16 including video lottery game operations.

17           SECTION 9. Subsection (a), Section 466.021, Government  
18 Code, is amended to read as follows:

19           (a) The executive director shall, every two years, employ an  
20 independent firm experienced in demographic analysis to conduct a  
21 demographic study of lottery players. The study must examine  
22 ~~[include]~~ the income, age, sex, race, education, and frequency of  
23 participation of players. The study must distinguish between  
24 players of traditional lottery games and video lottery games.

25           SECTION 10. Section 466.022, Government Code, is amended by  
26 amending Subsection (b) and adding Subsections (c) through (f) to  
27 read as follows:

1 (b) In addition to commission records excepted from  
2 disclosure under Chapter 552, the following information is  
3 confidential and is exempt from disclosure:

4 (1) security plans and procedures of the commission  
5 designed to ensure the integrity and security of the operation of  
6 the lottery;

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

11 (3) the street address and telephone number of a prize  
12 winner, if the prize winner has not consented to the release of the  
13 information; and

14 (4) information relating to all system operations of  
15 video lottery games, including the operation of the video lottery  
16 system, security related to video lottery games, and commission  
17 plans and procedures intended to ensure the integrity and security  
18 of the operation of video lottery games.

19 (c) Information that is confidential under Subsection  
20 (b)(4) includes information and data that:

21 (1) are furnished to the commission under Subchapter K  
22 or that may be otherwise obtained by the commission from any source;

23 (2) pertain to an applicant's criminal record,  
24 antecedents, and background and are furnished to or obtained by the  
25 commission from any source, including information obtained by the  
26 commission under Section 411.108(d);

27 (3) are provided to the commission, a commission

1 employee, or an investigator acting on behalf of the commission by a  
2 governmental agency or an informer or on the assurance that the  
3 information will be held in confidence and treated as confidential;

4 (4) are obtained by the commission from a video  
5 lottery manager, video lottery retailer, video lottery terminal  
6 provider, or video lottery central system provider; or

7 (5) are prepared or obtained by an agent or employee of  
8 the commission relating to a license, registration, or renewal  
9 application, a finding of suitability, or any approval required  
10 under Subchapter K.

11 (d) Information that qualifies as confidential under  
12 Subsection (b)(4) may be disclosed in whole or in part only as  
13 necessary to administer this chapter or under a court order. The  
14 commission, subject to appropriate procedures, may disclose the  
15 information and data to an authorized agent of a political  
16 subdivision of this state, the United States, another state or a  
17 political subdivision of another state, a tribal law enforcement  
18 agency, or the government of a foreign country.

19 (e) For the annual report required under Section 466.016,  
20 the commission may disclose a compilation of statistical  
21 information that is otherwise confidential under Subsection (b)(4)  
22 if the compilation does not disclose the identity of an applicant,  
23 license or registration holder, or video lottery terminal  
24 establishment.

25 (f) Notwithstanding any other provision of state law, the  
26 information provided under Subsection (d) or (e) may not otherwise  
27 be disclosed without specific commission authorization.

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

Sec. 466.024. PROHIBITED GAMES. (a) The executive director, ~~[or]~~ a lottery operator, a video lottery manager, a video lottery retailer, a video lottery terminal provider, or a video lottery central system provider may not establish or operate a lottery game in which the winner is chosen on the basis of the outcome of a live sports event.

(b) The ~~[commission shall adopt rules prohibiting the]~~ operation of any game using a video lottery machine, slot ~~[or]~~ machine, or other gambling device that is not connected to the video lottery central system and regulated by this state as required by this chapter is prohibited.

(c) In this section, "sports~~+~~  
~~[(1) "Sports]~~ event" means a football, basketball, baseball, or similar game, or a horse or dog race on which pari-mutuel wagering is allowed.

~~[(2) "Video lottery machine" or "machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including video poker, keno, and blackjack, using a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash, coins, or tokens, or that directly dispenses cash, coins, or tokens.]~~

SECTION 12. Section 466.025, Government Code, is amended to read as follows:

Sec. 466.025. REPORTS OF TICKETS SOLD, NET TERMINAL INCOME,

1 AND PRIZES AWARDED. For each lottery game, other than a video  
2 lottery game, after the last date on which a prize may be claimed  
3 under Section 466.408(d), the director shall prepare a report that  
4 shows the total number of tickets sold and the number and amounts of  
5 prizes awarded in the game. The report must be available for public  
6 inspection. For video lottery games, the director shall prepare a  
7 weekly report that shows net terminal income for the preceding  
8 week.

9 SECTION 13. Subsection (a), Section 466.103, Government  
10 Code, is amended to read as follows:

11 (a) Except as provided by Subsection (b), the executive  
12 director may not award a contract for the purchase or lease of  
13 facilities, goods, or services related to lottery operations to a  
14 person who:

15 (1) would be denied a license as a sales agent under  
16 Section 466.155; or

17 (2) with regard to video lottery equipment:

18 (A) is not a registered video lottery terminal  
19 provider if registration is required; or

20 (B) would be deemed unsuitable to be a video  
21 lottery terminal provider under Subchapter K.

22 SECTION 14. Section 466.110, Government Code, is amended to  
23 read as follows:

24 Sec. 466.110. PROHIBITED ADVERTISEMENTS. The legislature  
25 intends that advertisements or promotions sponsored by the  
26 commission or the division for the lottery not be of a nature that  
27 unduly influences any person to purchase a lottery ticket or number

1 or play a video lottery game.

2 SECTION 15. Subsection (b), Section 466.151, Government  
3 Code, is amended to read as follows:

4 (b) The executive director may establish a provisional  
5 license or other classes of licenses necessary to regulate and  
6 administer the quantity and type of lottery games provided at each  
7 licensed location of a sales agent.

8 SECTION 16. Subsection (a), Section 466.158, Government  
9 Code, is amended to read as follows:

10 (a) Unless suspended or revoked, a license issued under this  
11 subchapter expires on the date specified in the license, which may  
12 not be later than the fifth [~~second~~] anniversary of its date of  
13 issuance.

14 SECTION 17. Subsection (a), Section 466.201, Government  
15 Code, is amended to read as follows:

16 (a) The commission is entitled to conduct an investigation  
17 of and is entitled to obtain criminal history record information  
18 maintained by the Department of Public Safety, the Federal Bureau  
19 of Investigation Identification Division, or another law  
20 enforcement agency to assist in the investigation of:

21 (1) a sales agent or an applicant for a sales agent  
22 license;

23 (2) a person required to be named in a license  
24 application;

25 (3) a lottery operator, video lottery manager, video  
26 lottery retailer, video lottery terminal provider, or video lottery  
27 central system provider, or prospective lottery operator, video

1 lottery manager, video lottery retailer, video lottery terminal  
2 provider, or video lottery central system provider;

3 (4) an employee of a lottery operator, video lottery  
4 manager, video lottery retailer, video lottery terminal provider,  
5 or video lottery central system provider or prospective lottery  
6 operator, video lottery manager, video lottery retailer, video  
7 lottery terminal provider, or video lottery central system  
8 provider, if the employee is or will be directly involved in lottery  
9 operations;

10 (5) a person who manufactures or distributes lottery  
11 equipment or supplies, or a representative of a person who  
12 manufactures or distributes lottery equipment or supplies offered  
13 to the lottery;

14 (6) a person who has submitted a written bid or  
15 proposal to the commission in connection with the procurement of  
16 goods or services by the commission, if the amount of the bid or  
17 proposal exceeds \$500;

18 (7) an employee or other person who works for or will  
19 work for a sales agent or an applicant for a sales agent license;

20 (8) a person who proposes to enter into or who has a  
21 contract with the commission to supply goods or services to the  
22 commission; or

23 (9) if a person described in Subdivisions (1) through  
24 (8) is not an individual, an individual who:

25 (A) is an officer or director of the person;

26 (B) holds more than 10 percent of the stock in the  
27 person;

1 (C) holds an equitable interest greater than 10  
2 percent in the person;

3 (D) is a creditor of the person who holds more  
4 than 10 percent of the person's outstanding debt;

5 (E) is the owner or lessee of a business that the  
6 person conducts or through which the person will conduct  
7 lottery-related activities;

8 (F) shares or will share in the profits, other  
9 than stock dividends, of the person;

10 (G) participates in managing the affairs of the  
11 person; or

12 (H) is an employee of the person who is or will be  
13 involved in:

14 (i) selling tickets; or

15 (ii) handling money from the sale of  
16 tickets.

17 SECTION 18. Subchapter E, Chapter 466, Government Code, is  
18 amended by adding Section 466.206 to read as follows:

19 Sec. 466.206. CRIMINAL HISTORY INVESTIGATION FOR VIDEO  
20 LOTTERY. (a) Except as otherwise provided by this section,  
21 Sections 466.020 and 466.201, and Subchapter K, a criminal history  
22 investigation of a video lottery retailer, video lottery manager,  
23 video lottery terminal provider, or video lottery central system  
24 provider is governed by commission rules adopted under Subchapter  
25 K, which may consider a criminal history investigation conducted  
26 under the Texas Racing Act (Article 179e, Vernon's Texas Civil  
27 Statutes).

(b) The Department of Public Safety or a state or local law enforcement agency in this state, in accordance with an interagency agreement with the commission, shall provide any assistance requested by the commission in the administration and enforcement of this chapter, including conducting background investigations of a person seeking a license, registration, or other commission authorization required under Subchapter K or of any person required to be named in an application for a license, registration, or other commission authorization under that subchapter.

(c) This section does not limit the commission's right to obtain criminal history record information from any other local, state, or federal agency. The commission may enter into a confidentiality agreement with the agency as necessary and proper.

(d) Except as otherwise provided by Section 411.108(d) or another provision of this chapter, criminal history record information obtained by the commission under this section may be disclosed only:

(1) to another law enforcement agency to assist in or further an investigation related to the commission's operation and oversight of video lottery; or

(2) under a court order.

SECTION 19. Section 466.252, Government Code, is amended to read as follows:

Sec. 466.252. PLAYER [~~PURCHASE OF TICKET~~] AGREEMENT TO ABIDE BY RULES AND INSTRUCTIONS. (a) By purchasing a ticket in a particular lottery game or participating as a player in a lottery game, a player agrees to abide by and be bound by the commission's

1 rules and instructions, including the rules or instructions  
2 applicable to the particular lottery game involved. The player  
3 also acknowledges that the determination of whether the player is a  
4 valid winner is subject to:

5 (1) the commission's rules, instructions, and claims  
6 procedures, including those developed for the particular lottery  
7 game involved; ~~and~~

8 (2) any validation tests established by the commission  
9 for the particular lottery game involved; and

10 (3) the limitations and other provisions prescribed by  
11 this chapter.

12 (b) If the lottery uses tickets, an abbreviated form of the  
13 rules or a reference to the rules may appear on the tickets.

14 SECTION 20. Section 466.3011, Government Code, is amended  
15 to read as follows:

16 Sec. 466.3011. VENUE. Venue is proper in Travis County or  
17 any county in which venue is proper under Chapter 13, Code of  
18 Criminal Procedure, for:

19 (1) an offense under this chapter;

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

21 (A) is a lottery operator, lottery vendor, sales  
22 agent, video lottery manager, video lottery retailer, video lottery  
23 terminal provider, video lottery central system provider, or  
24 employee of the division; and

25 (B) is alleged to have committed the offense  
26 while engaged in lottery activities, including video lottery  
27 activities; or

1           (3) an offense that involves property consisting of or  
2 including lottery tickets under Title 7 or 11, Penal Code.

3           SECTION 21. Subchapter G, Chapter 466, Government Code, is  
4 amended by adding Section 466.3031 to read as follows:

5           Sec. 466.3031. UNAUTHORIZED OPERATION, USE, OR POSSESSION  
6 OF VIDEO LOTTERY TERMINAL. (a) A person may not operate, use, or  
7 possess a video lottery terminal unless the operation, use, or  
8 possession is expressly authorized by this chapter or other law.

9           (b) Except for transport to or from a video lottery terminal  
10 establishment and as provided by this chapter, a person commits an  
11 offense if the person operates, uses, or possesses any video  
12 lottery terminal that is not at all times connected to the video  
13 lottery central system or that does not generate revenue for this  
14 state, except funds retained by the commission to pay  
15 administrative costs. An offense under this subsection is a felony  
16 of the third degree.

17           (c) Notwithstanding Subsection (b), a video lottery  
18 retailer, video lottery manager, or registered or approved video  
19 lottery terminal provider may store or possess a video lottery  
20 terminal as authorized by the commission, and the commission may  
21 possess video lottery terminals for study and evaluation.

22           (d) Nothing in this section shall be construed to prohibit  
23 the operation, use, or possession of equipment, machines,  
24 technological aids, or other devices allowed in connection with the  
25 play of bingo under Chapter 2001, Occupations Code.

26           SECTION 22. Subsection (a), Section 466.305, Government  
27 Code, is amended to read as follows:

1           (a) A sales agent, video lottery manager, or video lottery  
2 retailer, or an employee of a sales agent, video lottery manager, or  
3 video lottery retailer, commits an offense if the person  
4 intentionally or knowingly sells a ticket to another person or  
5 allows the person to play or conduct a game on a video lottery  
6 terminal by extending credit or lending money to the person to  
7 enable the person to purchase the ticket or play the game.

8           SECTION 23. The heading to Section 466.3051, Government  
9 Code, is amended to read as follows:

10           Sec. 466.3051. SALE [~~OF TICKET~~] TO OR PURCHASE OF LOTTERY  
11 TICKET BY PERSON YOUNGER THAN 18; PLAY OF VIDEO LOTTERY GAME BY  
12 PERSON YOUNGER THAN 21 [~~YEARS OF AGE~~].

13           SECTION 24. Section 466.3051, Government Code, is amended  
14 by adding Subsections (a-1) and (b-1) and amending Subsections (b)  
15 through (f) to read as follows:

16           (a-1) A video lottery manager, a video lottery retailer, or  
17 an employee of a video lottery manager or video lottery retailer  
18 commits an offense if the person intentionally or knowingly allows  
19 a person younger than 21 years of age to play a video lottery game.

20           (b) An individual who is younger than 18 years of age  
21 commits an offense if the individual:

22                   (1) purchases a lottery ticket; or

23                   (2) falsely represents the individual to be 18 years  
24 of age or older by displaying evidence of age that is false or  
25 fraudulent or misrepresents in any way the individual's age in  
26 order to purchase a lottery ticket.

27           (b-1) An individual who is younger than 21 years of age

1 commits an offense if the individual:

2 (1) plays a video lottery game; or

3 (2) falsely represents the individual to be 21 years  
4 of age or older by displaying evidence of age that is false or  
5 fraudulent or misrepresents in any way the individual's age in  
6 order to play a video lottery game.

7 (c) A person 18 years of age or older may purchase a lottery  
8 ticket to give as a gift to another person, including an individual  
9 younger than 18 years of age.

10 (d) It is a defense to the application of Subsection (b)  
11 that the individual younger than 18 years of age is participating in  
12 an inspection or investigation on behalf of the commission or other  
13 appropriate governmental entity regarding compliance with this  
14 section. It is a defense to the application of Subsection (b-1)  
15 that the individual younger than 21 years of age is participating in  
16 an inspection or investigation on behalf of the commission or other  
17 appropriate governmental entity regarding compliance with this  
18 section.

19 (e) An offense under Subsection (a) or (a-1) is a Class C  
20 misdemeanor.

21 (f) An offense under Subsection (b) or (b-1) is punishable  
22 by a fine not to exceed \$250.

23 SECTION 25. Section 466.3053, Government Code, is amended  
24 to read as follows:

25 Sec. 466.3053. PURCHASE OF TICKET OR VIDEO LOTTERY GAME  
26 WITH PROCEEDS OF AFDC CHECK OR FOOD STAMPS. (a) A person commits  
27 an offense if the person intentionally or knowingly purchases a

1 ticket or plays a video lottery game with:

2 (1) the proceeds of a check issued as a payment under  
3 the Aid to Families with Dependent Children program administered  
4 under Chapter 31, Human Resources Code; or

5 (2) a food stamp coupon issued under the food stamp  
6 program administered under Chapter 33, Human Resources Code.

7 (b) An offense under this section is a Class C misdemeanor.

8 SECTION 26. Section 466.306, Government Code, is amended to  
9 read as follows:

10 Sec. 466.306. FORGERY; ALTERATION OF TICKET. (a) A person  
11 commits an offense if the person intentionally or knowingly alters  
12 or forges a ticket or video lottery ticket.

13 (b) An offense under this section is a felony of the third  
14 degree unless it is shown on the trial of the offense that the prize  
15 alleged to be authorized by the ticket or video lottery ticket  
16 forged or altered is greater than \$10,000, in which event the  
17 offense is a felony of the second degree.

18 SECTION 27. Subsection (a), Section 466.309, Government  
19 Code, is amended to read as follows:

20 (a) A person commits an offense if the person intentionally  
21 or knowingly tampers with, damages, defaces, or renders inoperable  
22 any vending machine, electronic computer terminal, video lottery  
23 terminal or other video lottery equipment, or other mechanical  
24 device used in a lottery game.

25 SECTION 28. The heading to Section 466.317, Government  
26 Code, is amended to read as follows:

27 Sec. 466.317. PROHIBITION AGAINST SALE OF CERTAIN LOTTERY

1 TICKETS OR OPERATION OF CERTAIN VIDEO LOTTERY SYSTEMS.

2 SECTION 29. Section 466.317, Government Code, is amended by  
3 adding Subsection (a-1) and amending Subsections (b) and (c) to  
4 read as follows:

5 (a-1) A person may not control or operate a video lottery  
6 system in this state except as provided by this chapter.

7 (b) The state may enter into a compact with another state or  
8 state government [~~or an Indian tribe or tribal government~~] to  
9 permit the sale of lottery tickets of this state in the state's[~~,~~  
10 ~~tribe's,~~] or government's jurisdiction and to allow the sale of the  
11 state's[~~,~~ ~~tribe's,~~] or government's lottery tickets in this state.

12 (c) A person commits an offense if the person violates this  
13 section. An offense under this section is a felony of the third  
14 degree [~~Class A misdemeanor~~].

15 SECTION 30. Subsection (a), Section 466.355, Government  
16 Code, is amended to read as follows:

17 (a) The state lottery account is a special account in the  
18 general revenue fund. The account consists of all revenue received  
19 from the sale of tickets, license and application fees under this  
20 chapter, other than Subchapter K, and all money credited to the  
21 account from any other fund or source under law. Interest earned by  
22 the state lottery account shall be deposited in the unobligated  
23 portion of the general revenue fund.

24 SECTION 31. Subchapter H, Chapter 466, Government Code, is  
25 amended by adding Section 466.360 to read as follows:

26 Sec. 466.360. VIDEO LOTTERY TERMINAL REVENUE. Revenue  
27 generated from the operation of video lottery terminals is governed

1 by Subchapter K and commission rules.

2 SECTION 32. Section 466.402, Government Code, is amended by  
3 adding Subsection (e) to read as follows:

4 (e) This section does not apply to the payment of prizes for  
5 video lottery games governed by Subchapter K.

6 SECTION 33. Chapter 466, Government Code, is amended by  
7 adding Subchapter K to read as follows:

8 SUBCHAPTER K. VIDEO LOTTERY

9 Sec. 466.501. LEGISLATIVE FINDINGS AND DECLARATIONS. The  
10 legislature finds and declares the following:

11 (1) The purpose and intent of this chapter is to carry  
12 out the intent of the voters as established by the approval of  
13 Section 47(e), Article III, Texas Constitution, to expand the  
14 revenue-generating ability of the state lottery by authorizing this  
15 state to operate a video lottery system consistent with public  
16 policy strictly limiting the expansion of gambling in this state.

17 (2) Except for the operation of video lottery  
18 terminals on certain Indian lands, the people of this state intend  
19 to allow only state-controlled video lottery games to be conducted  
20 in this state and only in locations at which pari-mutuel wagering is  
21 conducted at racetracks.

22 (3) This state has the authority and responsibility to  
23 control the proliferation of gambling by:

24 (A) limiting the total number of video lottery  
25 terminals permitted at authorized locations in this state;

26 (B) limiting video lottery licensing to specific  
27 licensed racetracks;

1                   (C) extending strict and exclusive state  
2 oversight and supervision to all persons, locations, practices, and  
3 associations related to the operation of video lottery games; and

4                   (D) providing comprehensive law enforcement  
5 supervision of video lottery game activities.

6                   (4) This state's ability to monitor and control the  
7 operation of all video lottery terminals ensures the integrity of  
8 the system and provides for the most efficient oversight and  
9 supervision. Costs incurred for oversight and supervision of  
10 gambling will be significantly less than if video lottery terminals  
11 were not operated as part of the video lottery system. In addition,  
12 providing for the state-controlled system will defend against  
13 criminal infiltration of gambling operations.

14                   (5) The video lottery games operated at racetracks  
15 under this chapter are controlled by this state in a manner that  
16 allows this state to continuously monitor all video lottery  
17 terminals and to disable any video lottery terminal for the  
18 protection of the public and this state.

19                   (6) Through the video lottery system this state will  
20 monitor the network of video lottery terminals to ensure maximum  
21 security unique to state-operated gambling. Except as may  
22 otherwise be required by federal law governing Indian lands, each  
23 operating video lottery terminal in this state will be connected to  
24 a video lottery central system.

25                   (7) The authorization for state-controlled video  
26 lottery terminals to fund governmental programs is consistent with  
27 this state's public policy prohibiting gambling provided the

1 gambling is not, in any way, expanded beyond that directly  
2 controlled by this state. Expanded gambling beyond this limited  
3 form of state-controlled gambling would compromise the public  
4 safety, law, and long-standing policy against gambling in this  
5 state. In addition, such expanded gambling could impose  
6 prohibitive cost on this state's regulatory system and, therefore,  
7 defeat the effort to raise revenue for state governmental programs  
8 through authorized video lottery terminals. For these reasons, any  
9 interpretation that allows for casino gaming of the type operating  
10 in Nevada and New Jersey in 2005 to be conducted in this state at  
11 racetracks or on Indian lands as a result of the authorization of  
12 video lottery terminals would have severe adverse consequences on  
13 this state's efforts to raise revenue to fund governmental programs  
14 through the operation of video lottery terminals and would violate  
15 the public policy against gambling in such a way that would clearly  
16 outweigh any potential positive economic consequences.

17 (8) In authorizing only a state-controlled and  
18 state-operated video lottery system and state-controlled video  
19 lottery terminals in limited locations and continuing the general  
20 prohibition on gambling in this state as a matter of public policy,  
21 this state is protecting the state's legitimate interests by  
22 restricting such vice activity. By limiting the operation of video  
23 lottery terminals to those connected to the state-controlled video  
24 lottery system and to certain lands and certain types of games, the  
25 legislature seeks to foster this state's legitimate sovereign  
26 interest in regulating the growth of gambling activities in this  
27 state. Historically, this state has banned commercial gambling

1 altogether and, therefore, it is in this state's best interest to  
2 limit the placement of commercial gambling operations to certain  
3 locations. Limiting video lottery terminals to those controlled by  
4 this state and located on racetracks where regulated gambling  
5 occurs is reasonably designed to defend against the criminal  
6 infiltration of gambling operations and adverse impacts on  
7 communities statewide. By restricting gambling such as video  
8 lottery terminals to carefully limited locations and video lottery  
9 terminals controlled by this state that may be disabled by this  
10 state if necessary to protect the public, this state furthers the  
11 state's purpose of ensuring that such gambling activities are free  
12 from criminal and undesirable elements.

13 (9) This chapter is game-specific and may not be  
14 construed to allow the operation of any other form of gambling  
15 unless specifically allowed by this chapter. This chapter does not  
16 allow the operation of slot machines, dice games, roulette wheels,  
17 house-banked games, including house-banked card games, or games in  
18 which winners are determined by the outcome of a sports contest that  
19 are expressly prohibited under other state law.

20 (10) In considering limitations on expanded gambling  
21 in this state, it is a critical factor to effectuate the will of the  
22 voters that any gaming on lands of the Ysleta del Sur Pueblo and  
23 Alabama-Coushatta Indian tribes must be in strict compliance with  
24 state law. The Kickapoo Traditional Tribe of Texas is only entitled  
25 to operate video lottery terminals in strict compliance with state  
26 law, unless otherwise required by federal law, and in accordance  
27 with a gaming agreement negotiated with the governor and ratified

1 by the legislature. A tribe may not under any circumstances operate  
2 Class III gaming as defined by federal law other than video lottery  
3 terminals connected to a video lottery central system controlled  
4 and operated by this state.

5 (11) The legislature has conferred a substantial  
6 economic benefit on federally recognized Indian tribes by allowing  
7 operation of video lottery terminals on lands held in trust by the  
8 Ysleta del Sur Pueblo and Alabama-Coushatta Indian tribes, and on  
9 Indian lands of the Kickapoo Traditional Tribe of Texas on which  
10 gaming is allowed under applicable federal law. These tribes have  
11 the exclusive right to operate video lottery terminals at locations  
12 on the Indian lands in this state without incurring the investment  
13 necessary to construct, maintain, and operate racetracks for live  
14 racing, and through revenue-sharing both the policy of  
15 self-governance for the tribes and this state's interests in  
16 generating additional revenue to fund governmental programs can be  
17 promoted.

18 (12) The public has an interest in video lottery game  
19 operations, and lottery operations conducted under Section 47(e),  
20 Article III, Texas Constitution, and this chapter represent an  
21 exception to the general policy of this state prohibiting wagering  
22 for private gain. Therefore, participation in a video lottery game  
23 by a holder of a license, registration, or approval under this  
24 chapter is considered a privilege conditioned on the proper and  
25 continued qualification of the holder and on the discharge of the  
26 affirmative responsibility of each holder to provide to the  
27 commission or other regulatory and investigatory authorities

1 established by this chapter any assistance and information  
2 necessary to assure that the policies declared by this chapter are  
3 achieved. Consistent with this policy, the legislature intends  
4 this chapter to:

5 (A) preclude the creation of any property right  
6 in any license, registration, or approval issued or granted by this  
7 state under this chapter, the accrual of any value to the privilege  
8 of participation in any video lottery game operation, or the  
9 transfer of a license or permit; and

10 (B) require that participation in video lottery  
11 game operations be solely conditioned on the individual  
12 qualifications of persons seeking this privilege.

13 (13) Only video lottery terminals lawfully operated in  
14 connection with a video lottery system authorized by this  
15 subchapter may be lawfully operated on Indian lands under the  
16 Johnson Act (15 U.S.C. Section 1175).

17 Sec. 466.502. CONSTRUCTION; APPLICABILITY OF OTHER LAWS.

18 (a) This subchapter applies uniformly throughout this state and  
19 all political subdivisions of this state.

20 (b) To the extent of any inconsistency between Chapter 2003  
21 and this subchapter or a commission rule governing video lottery  
22 terminals, this subchapter or the commission rule controls in all  
23 matters related to video lottery terminals, including hearings  
24 before the State Office of Administrative Hearings.

25 (c) Video lottery equipment operated under commission  
26 authority and this chapter is exempt from 15 U.S.C. Section 1172.

27 Sec. 466.503. AUTHORITY TO OPERATE VIDEO LOTTERY SYSTEM.

1 (a) The commission may implement and operate a video lottery  
2 system and regulate the operation of video lottery terminals at  
3 racetracks in accordance with this chapter and the Texas Racing Act  
4 (Article 179e, Vernon's Texas Civil Statutes). This chapter  
5 supersedes any conflicting or inconsistent provision of the Texas  
6 Racing Act (Article 179e, Vernon's Texas Civil Statutes) or other  
7 state law.

8 (b) The commission may allow the operation of video lottery  
9 terminals pursuant to this chapter at locations on Indian lands in  
10 accordance with an effective gaming agreement and in compliance  
11 with applicable federal law.

12 Sec. 466.504. VIDEO LOTTERY GAMES; STATE OWNERSHIP AND  
13 PROPRIETARY INTEREST. (a) This state owns all video lottery  
14 games, regardless of ownership of the video lottery terminal. This  
15 state possesses a proprietary interest in:

16 (1) the main logic boards and any electronic storage  
17 medium used in video lottery equipment or games; and

18 (2) software consisting of computer programs,  
19 documentation, and other related materials necessary for the  
20 operation of the video lottery system.

21 (b) For purposes of this chapter, this state may acquire a  
22 proprietary interest in video lottery game software through:

23 (1) ownership of the software; or

24 (2) an exclusive product license agreement with a  
25 provider in which the provider retains copyrighted ownership of the  
26 software but the license granted to this state is nontransferable  
27 and authorizes this state to operate the software program, solely

1 for the state's own use, on the video lottery central system and  
2 video lottery terminals connected to the video lottery central  
3 system.

4 Sec. 466.505. STATE CONTROL OF VIDEO LOTTERY SYSTEM.

5 (a) In accordance with Section 47(e), Article III, Texas  
6 Constitution, the commission shall control and regulate the video  
7 lottery system and the video lottery central system through which  
8 this state has the exclusive and unilateral ability to monitor  
9 activity of video lottery terminals and remotely disable video  
10 lottery terminals for the public safety, health, and welfare or the  
11 preservation of the integrity of the lottery and to prevent any  
12 financial loss to this state.

13 (b) This section does not affect or restrict the ability of  
14 a video lottery manager or video lottery retailer to monitor  
15 activity of video lottery terminals and to disable video lottery  
16 terminals in accordance with commission rules.

17 (c) The commission may disable a video lottery terminal if a  
18 video lottery retailer's or video lottery manager's license is  
19 revoked, surrendered, or summarily suspended under this subchapter  
20 and to prevent any financial loss to this state.

21 Sec. 466.506. VIDEO LOTTERY CENTRAL SYSTEM. (a) The  
22 commission shall establish or cause to be established a video  
23 lottery central system to link all video lottery terminals in the  
24 video lottery system. The video lottery central system must  
25 provide the auditing and other information required by the  
26 commission.

27 (b) The commission shall provide to a registered video

1 lottery terminal provider or an applicant applying for registration  
 2 as a video lottery terminal provider the protocol documentation  
 3 data necessary to enable the provider's or applicant's video  
 4 lottery terminals to communicate with the commission's video  
 5 lottery central system for transmission of auditing program  
 6 information and for activation and disabling of video lottery  
 7 terminals.

8 (c) The video lottery central system design may not limit or  
 9 preclude potential providers from providing state of the art,  
 10 industry standard video lottery terminals and associated equipment  
 11 such as player tracking systems, accounting systems, progressive  
 12 systems, and bonusing systems, except for providers that fail to  
 13 meet registration or approval specifications established by the  
 14 commission.

15 (d) The commission may not allow a video lottery central  
 16 system provider to sell or distribute video lottery terminals in  
 17 this state to ensure the efficiency, integrity, and security of the  
 18 video lottery system.

19 (e) The commission may contract with a video lottery central  
 20 system provider to establish the video lottery central system.

21 Sec. 466.507. VIDEO LOTTERY TERMINAL PROVIDER:  
 22 REGISTRATION OR APPROVAL REQUIRED. (a) A person may not  
 23 manufacture or distribute video lottery equipment for use or play  
 24 in this state unless the person is registered as a video lottery  
 25 terminal provider or is otherwise approved by the commission to  
 26 manufacture or distribute video lottery equipment in this state.

27 (b) Unless suspended or revoked, the registration or

approval expires on the date specified by the commission, which may not be later than the fifth anniversary of the date of the registration or approval. A person may renew an unexpired registration or approval by paying the required renewal fee and complying with the requirements of this subchapter and commission rule.

(c) To be eligible for registration or commission approval as required by this section, an applicant must satisfy all applicable requirements under this subchapter.

Sec. 466.508. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION; CHANGE IN INFORMATION. (a) The commission shall adopt rules governing the registration or approval of video lottery terminal providers. The rules must require the application and any other form or document submitted to the commission by or on behalf of the applicant to determine the applicant's qualification under this section to be sworn to or affirmed before an officer qualified to administer oaths.

(b) An applicant for a video lottery terminal provider registration or approval must provide the following information:

- (1) the full name and address of the applicant;
- (2) the full name and address of each location at which video lottery equipment is or will be manufactured or stored in this state;
- (3) the name, home address, and share of ownership of the applicant's substantial interest holders;
- (4) a full description of each separate type of video lottery equipment that the applicant seeks to manufacture or

1 distribute in this state;

2 (5) the brand name under which each type of video  
3 lottery equipment is to be distributed;

4 (6) if the applicant is incorporated under law other  
5 than the laws of this state, the applicant's irrevocable  
6 designation of the secretary of state as the applicant's resident  
7 agent for service of process and notice in accordance with the law  
8 of this state;

9 (7) a list of all businesses or organizations in this  
10 state in which the applicant has any financial interest and the  
11 details of that financial interest, including all arrangements  
12 through which a person directly or indirectly receives any portion  
13 of the profits of the video lottery terminal provider and  
14 indebtedness between the license holder and any other person, other  
15 than a regulated financial institution, in excess of \$5,000;

16 (8) a list of all affiliated businesses or  
17 corporations in which the applicant or an officer, director, or  
18 substantial interest holder of the applicant, either directly or  
19 indirectly, owns or controls as a sole proprietor or partner more  
20 than 10 percent of the voting stock of a publicly traded  
21 corporation;

22 (9) a list of all businesses or corporations licensed  
23 to conduct gambling activities or to supply gambling-related  
24 equipment, supplies, or services in which the applicant or an  
25 officer, director, or substantial interest holder of the applicant  
26 has any interest;

27 (10) a list of all jurisdictions in which the

1 applicant or an officer, director, or substantial interest holder  
2 of the applicant has been licensed, registered, qualified, or  
3 otherwise approved to conduct gambling-related activities during  
4 the 10 years preceding the date of the filing of the application;

5 (11) a statement, including all related details,  
6 indicating whether the applicant or an officer, director, or  
7 substantial interest holder of the applicant has ever had a  
8 license, registration, qualification, or other approval for  
9 gambling-related activities denied, revoked, or suspended by any  
10 jurisdiction or has been fined or otherwise required to pay  
11 penalties or monetary forfeitures for gambling-related activities  
12 in any jurisdiction; and

13 (12) a statement acknowledging that the applicant will  
14 make available for review at the time and place requested by the  
15 commission all records related to the ownership or operation of the  
16 business.

17 (c) The commission may require the following information  
18 from an applicant:

19 (1) personal financial and personal history records of  
20 all substantial interest holders;

21 (2) all records related to the scope of activity,  
22 including sales of product, purchases of raw materials and parts,  
23 and any contracts, franchises, patent agreements, or similar  
24 contracts or arrangements related to manufacturing or distributing  
25 video lottery terminals; and

26 (3) records related to any financial or management  
27 control of or by customers and suppliers.

1       (d) The applicant must demonstrate the ability to comply  
 2 with all manufacturing, quality control, and operational  
 3 restrictions imposed on authorized video lottery equipment,  
 4 patented or otherwise restricted video lottery games, or other  
 5 video lottery equipment that the applicant seeks to manufacture or  
 6 distribute for use in this state. The registration or approval  
 7 process may include an on-site review of the applicant's  
 8 manufacturing equipment and process for each separate type of  
 9 authorized video lottery equipment to ensure compliance with the  
 10 requirements of this chapter and commission rules.

11       (e) Not later than the 30th day after the date of any change  
 12 in the information submitted on or with the application form, the  
 13 applicant shall notify the commission of the change, including a  
 14 change that occurs after the registration or other commission  
 15 approval has been granted.

16       (f) The applicant shall comply with all federal and state  
 17 laws, local ordinances, and rules.

18       Sec. 466.509. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION  
 19 FEE. (a) An applicant seeking registration or approval or renewal  
 20 of registration or approval as a video lottery terminal provider  
 21 must pay a nonrefundable application fee in the amount prescribed  
 22 by commission rule that is sufficient to pay the costs to the  
 23 commission of administering and licensing video lottery terminals.

24       (b) Application fees paid under this section shall be  
 25 retained by the commission to defray costs incurred in the  
 26 administration and enforcement of this chapter relating to the  
 27 operation of video lottery terminals.

1       Sec. 466.510. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY  
2 MANAGER LICENSE REQUIRED. Except as provided by a gaming  
3 agreement, a person may not own or operate a video lottery terminal  
4 if the person does not satisfy the requirements of this subchapter  
5 and is not licensed by the commission to act as a video lottery  
6 retailer or video lottery manager.

7       Sec. 466.511. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY  
8 MANAGER: APPLICATION AND QUALIFICATION. (a) An applicant for a  
9 video lottery retailer or video lottery manager license must apply  
10 to the commission under rules adopted by the commission, provide  
11 the information necessary to determine the applicant's eligibility  
12 for a license, and provide other information considered necessary  
13 by the commission. The applicant must:

14             (1) hold a valid pari-mutuel license granted by the  
15 Texas Racing Commission under the Texas Racing Act (Article 179e,  
16 Vernon's Texas Civil Statutes);

17             (2) have a valid and executed contract with a  
18 racetrack that satisfies the requirements of Subdivision (1) to act  
19 as a video lottery manager for the racetrack subject to licensing  
20 under this chapter;

21             (3) demonstrate to the commission's satisfaction that  
22 the applicant seeks to act as a video lottery manager for a  
23 federally recognized Indian tribe that has entered into a gaming  
24 agreement with this state that is in effect and governs the  
25 regulation of video lottery terminals on Indian lands in this  
26 state;

27             (4) have an application pending at the Texas Racing

1 Commission for a pari-mutuel license under the Texas Racing Act  
2 (Article 179e, Vernon's Texas Civil Statutes) on June 1, 2005; or

3 (5) have an entity or be a person whose pari-mutuel  
4 license has lapsed or been suspended or surrendered if such person  
5 is qualified and licensed as a pari-mutuel license holder under the  
6 Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) on or  
7 before January 1, 2006.

8 (b) Each officer, partner, director, key employee,  
9 substantial interest holder, video lottery game operation  
10 employee, and owner of video lottery game operations must be  
11 eligible and maintain eligibility in accordance with this  
12 subchapter to be involved in video lottery games in this state.

13 (c) An applicant for a video lottery retailer or video  
14 lottery manager license has the burden of proving qualification for  
15 a license by clear and convincing evidence. In addition to  
16 satisfying minimum requirements established by commission rules,  
17 an applicant for a video lottery retailer or video lottery manager  
18 license must:

19 (1) be a person of good character, honesty, and  
20 integrity;

21 (2) be a person whose background and prior activities,  
22 including criminal record, reputation, habits, and associations,  
23 do not pose a threat to the security and integrity of video lottery  
24 or to the public interest of this state or to the effective  
25 operation and control of video lottery, or do not create or enhance  
26 the dangers of unsuitable, unfair, or illegal practices, methods,  
27 and activities in the conduct of video lottery or in the carrying on

1 of the business and financial arrangements incidental to video  
2 lottery;

3 (3) if applying for a new license, provide  
4 fingerprints for a criminal records evaluation by the Department of  
5 Public Safety or other law enforcement agency, including  
6 fingerprints for each person required to be named in an  
7 application, accompanied by a signed authorization for the release  
8 of information to the commission by the Department of Public Safety  
9 and the Federal Bureau of Investigation;

10 (4) not have been convicted of an offense under this  
11 chapter or of any crime related to theft, bribery, or gambling or  
12 involving moral turpitude;

13 (5) demonstrate adequate business probity,  
14 competence, experience, and financial stability as defined by the  
15 commission;

16 (6) demonstrate adequate financing for the operation  
17 of the facility at which the video lottery terminals will be  
18 operated from a source that meets the requirements of this  
19 subchapter and is adequate to support the successful performance of  
20 the duties and responsibilities of the license holder and disclose  
21 all financing or refinancing arrangements for the purchase, lease,  
22 or other acquisition of video lottery equipment in the degree of  
23 detail requested by the commission;

24 (7) when applying for a new license or renewing a  
25 license under this chapter, present evidence to the commission of  
26 the existence and terms of any agreement regarding the proceeds  
27 from the operation of video lottery terminals;

1           (8) demonstrate that each substantial interest holder  
2 in the applicant meets all applicable qualifications under this  
3 subchapter;

4           (9) provide all information, including financial data  
5 and documents, consents, waivers, identification of surety and  
6 insurance providers, and any other materials, requested by the  
7 commission for purposes of determining qualifications for a  
8 license; and

9           (10) as part of its application, expressly waive any  
10 and all claims against the commission, this state, and a member,  
11 officer, employee, or authorized agent of the commission or this  
12 state for damages resulting from any background investigation,  
13 disclosure, or publication relating to an application for a video  
14 lottery retailer or video lottery manager license.

15           (d) An application or disclosure form and any other document  
16 submitted to the commission by or on behalf of the applicant for  
17 purposes of determining qualification for a video lottery retailer  
18 or video lottery manager license must be sworn to or affirmed before  
19 an officer qualified to administer oaths.

20           (e) An applicant who knowingly fails to reveal any fact  
21 material to qualification for a license, finding of suitability, or  
22 other approval or who knowingly submits false or misleading  
23 material information is ineligible for a video lottery retailer or  
24 video lottery manager license.

25           (f) An applicant for a license or renewal of a license as a  
26 video lottery retailer or video lottery manager shall notify the  
27 commission of any change in the application information for a

license or renewal of a license not later than the 10th day after the date of the change, except that a publicly traded corporation or other business association or entity applicant is not required to notify the commission of a transfer by which any person directly or indirectly becomes the beneficial owner of less than 10 percent of the stock of the corporation or association.

(g) Except as provided by Section 466.513(e), the commission shall deny an application for a license or shall suspend or revoke a license if the commission finds that the applicant would be subject to denial or revocation of a sales agent license under Section 466.155.

Sec. 466.512. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER: APPLICATION FEE. (a) An applicant for a video lottery retailer or video lottery manager license shall submit a nonrefundable application processing fee in the amount prescribed by commission rule that is sufficient and reasonable to pay the costs of determining the applicant's eligibility, not to exceed \$50,000.

(b) An application may not be processed until the applicant pays the application fee. If the application fee is not received by the 30th day after the date the commission notifies the applicant of the amount of the fee, the application is considered withdrawn and may not be considered by the commission.

Sec. 466.513. VIDEO LOTTERY TERMINAL ESTABLISHMENT LICENSE: REQUIREMENTS; LOCATION. (a) An applicant for a video lottery terminal establishment license must ensure that the facility for the establishment will comply with all applicable

1 building codes and rules of the commission. The rules adopted by  
2 the commission relating to facilities for video lottery terminal  
3 establishments must relate solely to this state's interest in the  
4 operation of video lottery terminals.

5 (b) A video lottery terminal establishment shall provide  
6 office space for the commission sufficient for at least one  
7 commission employee.

8 (c) An applicant for a video lottery terminal establishment  
9 license or a license holder shall provide the information required  
10 by commission rule relating to the applicant's or license holder's  
11 video lottery terminal establishment and update the information at  
12 least annually.

13 (d) The commission may not issue a video lottery terminal  
14 establishment license to a racetrack if as of January 1, 2005, a  
15 property line of the licensed premises of the racetrack is located  
16 within one-half mile of the property line of a public school.

17 (e) Notwithstanding Section 466.155, the commission may not  
18 deny, suspend, or revoke a license under this subchapter based on  
19 the fact that a video lottery terminal establishment or a proposed  
20 video lottery terminal establishment is a location for which a  
21 person holds a wine and beer retailer's permit, mixed beverage  
22 permit, mixed beverage late hours permit, private club registration  
23 permit, or private club late hours permit, issued under Chapter 25,  
24 28, 29, 32, or 33, Alcoholic Beverage Code.

25 (f) Video lottery retail establishments may only be  
26 located:

27 (1) at greyhound racetracks located:

1                   (A) in a county that borders the Gulf of Mexico  
2 and in which a license for a greyhound track in the county had been  
3 issued by the agency that regulates pari-mutuel wagering in this  
4 state on or before January 1, 2005;

5                   (B) in a county that borders the Gulf of Mexico  
6 and that is adjacent to another state that currently permits  
7 wagering, provided that the voters in the county approve a local  
8 option election for pari-mutuel wagering on or before October 1,  
9 2005; or

10                  (C) in a county with a population of more than 1.4  
11 million that is adjacent to a county with a population of more than  
12 1.4 million, according to the 2000 census, in which a license for a  
13 horse-racing track had been issued by the agency that regulates  
14 pari-mutuel wagering in this state on or before January 1, 2005, for  
15 either county, provided that to ensure public accessibility,  
16 tourism enhancement, and economic development near public  
17 facilities in urban areas, creating a destination resort, greyhound  
18 racetracks under this subdivision may be located only in an area  
19 that is a downtown area of the largest municipality in the county,  
20 served by commuter rail, and either:

21                   (i) for the racetrack located in a county  
22 with a population of more than 2.2 million, within an area bounded  
23 by the Convention Center DART station, the Cedars DART station, and  
24 the Trinity River redevelopment project, and to the south of and in  
25 close proximity to the municipal convention center, provided that  
26 video lottery terminal games may not be located or conducted on any  
27 property that a city, town, or municipality has, by contract or

1 agreement, dedicated solely to general municipal purposes; or

2 (ii) for the racetrack located in another  
3 county, on a portion of a tract of land that is within an area  
4 bordered by the Trinity River and the Intermodal Transportation  
5 Center and is closest to the municipal convention center so as to  
6 enhance tourism and development in the area described;

7 (2) at horse racetracks located:

8 (A) in a county in which a horse-racing track  
9 license had been issued by the agency that regulates pari-mutuel  
10 wagering in this state prior to January 1, 2005, and in which a  
11 track was operational or located on that date;

12 (B) in a county in which an application for a  
13 horse racetrack license was pending with the Texas Racing  
14 Commission on June 1, 2005;

15 (C) in a county adjacent to a county with a  
16 population of more than 1.4 million in which a class 2 horse  
17 racetrack license had previously been issued by the Texas Racing  
18 Commission;

19 (D) in a city with a population of 55,000 or more  
20 in a county with a population of 250,000 or more that is adjacent to  
21 a county having a population of 2.8 million or more at a location  
22 that is within one-half mile of a public municipal convention  
23 center; or

24 (E) in a city with a population of less than  
25 140,000 in a county with a population of 250,000 or more adjacent to  
26 a border of this state; and

27 (3) on or adjacent to the lands of the Ysleta del Sur

1 Pueblo and Alabama-Coushatta Indian tribes, which, under agreement  
2 with this state in the form prescribed by general law or negotiated  
3 by the governor, operate the games on lands held in trust by the  
4 United States for such tribes on January 1, 1998, pursuant to the  
5 Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of  
6 Texas Restoration Act (25 U.S.C. Section 731 et seq.) and the Indian  
7 Gaming Regulatory Act of 1988 (18 U.S.C. Section 1166 et seq. and 25  
8 U.S.C. Section 2701 et seq.) and designated by the tribes for video  
9 lottery activity or the lands of the Kickapoo Traditional Tribe of  
10 Texas, which, under agreement with this state in the form  
11 prescribed by general law or negotiated by the governor, operates  
12 the games on lands held in trust by the United States for such  
13 tribes on January 1, 2005, for the benefit of the tribe on which  
14 Class III gaming is permitted under the Indian Gaming Regulatory  
15 Act of 1988 (18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section  
16 2701 et seq.) and designated by the tribe for video lottery  
17 activity.

18 Sec. 466.14. LICENSE HOLDER AS SALES AGENT. The holder of a  
19 video lottery retailer or video lottery manager license may operate  
20 as a sales agent for video lottery tickets in accordance with this  
21 chapter.

22 Sec. 466.515. LICENSE TERM; RENEWAL ELIGIBILITY.  
23 (a) Unless suspended or revoked, a license issued under this  
24 subchapter, other than a video lottery retailer license, expires on  
25 the date specified in the license, which may not be later than the  
26 fifth anniversary of the date of issuance.

27 (b) A video lottery retailer license is valid for the same

1 term as a pari-mutuel license and until suspended or revoked. The  
2 commission may charge an annual fee not to exceed \$50,000 to the  
3 holder of a video lottery retailer license.

4 (c) To be eligible for renewal of a license, an applicant  
5 must satisfy all applicable licensing requirements under this  
6 subchapter.

7 Sec. 466.516. RULES FOR ADDITIONAL LICENSE QUALIFICATIONS.  
8 The commission by rule may establish other license qualifications  
9 the commission determines are in the public interest and consistent  
10 with the declared policy of this state.

11 Sec. 466.517. APPLICATION AS REQUEST FOR CHARACTER  
12 DETERMINATION. An application under this subchapter to receive or  
13 renew a license, registration, or approval or to be found suitable  
14 constitutes a request for a determination of the applicant's  
15 general character, integrity, and ability to participate or engage  
16 in or be associated with the operation of video lottery terminals.

17 Sec. 466.518. IMMUNITY FOR STATEMENT MADE IN PROCEEDING OR  
18 INVESTIGATION. Any written or oral statement made in the course of  
19 an official commission proceeding or investigative activities  
20 related to an application for commission licensing, registration,  
21 or other approval under this subchapter, by any member or agent or  
22 any witness testifying under oath that is relevant to the purpose of  
23 the proceeding is absolutely privileged and does not impose  
24 liability for defamation or constitute a ground for recovery in any  
25 civil action.

26 Sec. 466.519. SUITABILITY FINDING. To promote the  
27 integrity and security of the lottery, the commission in its

1 discretion may require a suitability finding for any person doing  
2 business with or in relation to the operation of video lottery  
3 terminals who is not otherwise required to obtain a license,  
4 registration, or approval from the commission for the person's  
5 video lottery-related operations.

6 Sec. 466.520. SUMMARY SUSPENSION OF VIDEO LOTTERY RETAILER  
7 OR VIDEO LOTTERY MANAGER LICENSE; TERMINAL DISABLED. (a) The  
8 commission may summarily suspend the license of a video lottery  
9 retailer or video lottery manager without notice or hearing if the  
10 commission finds the action is necessary to maintain the integrity,  
11 security, honesty, or fairness of the operation or administration  
12 of the lottery or to prevent financial loss to this state and:

13 (1) the license holder fails to deposit money received  
14 from video lottery terminal operations as required by this chapter  
15 or commission rule;

16 (2) an event occurs that would render the license  
17 holder ineligible for a license under this subchapter;

18 (3) the license holder refuses to allow the  
19 commission, the commission's agents, or the state auditor, or their  
20 designees, to examine the license holder's books, records, papers,  
21 or other objects under Section 466.017; or

22 (4) the executive director learns the license holder  
23 failed to disclose information that would, if disclosed, render the  
24 video lottery retailer or video lottery manager ineligible for a  
25 license under this subchapter.

26 (b) A summary suspension under this section must comply with  
27 the notice and procedure requirements provided by Section 466.160.

1       (c) The commission may disable a video lottery terminal  
2 operated by a license holder under this subchapter at the time:

3           (1) a proceeding to summarily suspend the license is  
4 initiated;

5           (2) the commission discovers the license holder failed  
6 to deposit money received from video lottery terminal operation as  
7 required if the license is being summarily suspended under this  
8 section; or

9           (3) an act or omission occurs that, under commission  
10 rules, justifies the termination of video lottery terminal  
11 operations to:

12               (A) protect the integrity of the lottery or the  
13 public health, welfare, or safety; or

14               (B) prevent financial loss to this state.

15       (d) The commission shall immediately disable a video  
16 lottery terminal if necessary to protect the public health,  
17 welfare, or safety.

18       Sec. 466.521. TRANSFER RESTRICTIONS. (a) A video lottery  
19 retailer or video lottery manager license is not transferable.

20       (b) A pari-mutuel license holder that sells, transfers,  
21 assigns, or otherwise conveys any interest or control in the  
22 pari-mutuel license or the racetrack owned or managed by the  
23 license holder before video lottery operations begin at the  
24 racetrack or before the third anniversary of the commencement of  
25 video lottery operations shall remit to this state a transfer fee  
26 equal to 75 percent of the sales, transfer, assignment, or other  
27 conveyance price or other consideration received by the pari-mutuel

license holder. A transfer or conveyance of an interest or control under this subsection is subject to Section 6.21, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(c) A sale, transfer, assignment, or conveyance of interest or control to which Subsection (b) applies may not be approved by the commission until this state receives the transfer fee.

(d) This section does not apply to a transfer or assignment the commission determines is necessary to secure financing for the construction or operation of the racetrack. The commission may adopt rules to implement this section.

Sec. 466.522. LICENSING, REGISTRATION, SUITABILITY, AND REGULATORY APPROVAL AS REVOCABLE PERSONAL PRIVILEGES. (a) An applicant for a license, registration, suitability, or other affirmative regulatory approval under this subchapter does not have any right to the license, registration, suitability, or approval sought.

(b) Any license, registration, or suitability or other regulatory approval granted under this subchapter is a revocable privilege, and a holder of the privilege does not acquire any vested right in or under the privilege.

(c) The courts of this state do not have jurisdiction to review a decision to deny, limit, or condition the license, registration, suitability, or approval unless the judicial review is sought on the ground that the denial, limitation, or condition is based on a suspect classification, such as race, color, religion, sex, or national origin, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States

Constitution. If a state court has jurisdiction over a claim under this section, then this state's sovereign immunity is waived only to the extent expressly provided by Section 466.567.

(d) A license, registration, suitability, or regulatory approval granted or renewed under this subchapter may not be transferred or assigned to another person, and a license, registration, suitability, or approval may not be pledged as collateral. The purchaser or successor of a person who has been granted a license, registration, suitability, or regulatory approval must independently qualify for a license, registration, suitability, or approval required by this subchapter.

(e) The following acts void the license, registration, suitability, or other regulatory approval of the holder unless approved in advance by the commission:

(1) the transfer, sale, or other disposition of an interest in the holder that results in a change in the identity of a substantial interest holder; or

(2) the sale of the assets of the holder, other than assets bought and sold in the ordinary course of business, or any interest in the assets, to any person not already determined to have met the applicable qualifications of this subchapter.

Sec. 466.523. CAPITAL INVESTMENTS AND IMPROVEMENT REQUIREMENTS FOR VIDEO LOTTERY TERMINAL ESTABLISHMENT. A video lottery retailer or video lottery manager shall provide all necessary capital investments and required improvements at a video lottery terminal establishment operated by the retailer or manager.

Sec. 466.524. VIDEO LOTTERY TERMINAL. The commission shall

provide all video lottery retailers or video lottery managers with a list of registered video lottery terminal providers, video lottery games, and video lottery terminals authorized for operation under this subchapter.

Sec. 466.525. VIDEO LOTTERY TERMINAL: DISTRIBUTION AND COMMISSION APPROVAL. (a) A video lottery terminal provider may not distribute a video lottery terminal or other video lottery equipment for placement at a video lottery terminal establishment in this state unless the video lottery terminal has been approved by the commission.

(b) Only a video lottery terminal provider registered with or approved by the commission may apply for approval of a video lottery terminal or other video lottery equipment.

(c) Not later than the 10th day before the date of shipment to a location in this state, a video lottery terminal provider shall file a report with the commission itemizing all video lottery terminals and other video lottery equipment to be provided to a video lottery retailer or video lottery manager in the shipment.

Sec. 466.526. VIDEO LOTTERY TERMINAL: TESTING; REPORT. (a) A video lottery terminal provider shall submit two copies of terminal illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, and any other information requested by the commission for the purpose of analyzing and testing the video lottery terminal or other video lottery equipment.

(b) The commission may require a working model of a video lottery terminal to be provided to the commission unless the video

1 lottery terminal provider provides a certification from an  
2 independent, commission-approved testing laboratory that the video  
3 lottery terminal is compatible with the state's video lottery  
4 system and functions as required by the commission.

5 Sec. 466.527. VIDEO LOTTERY TERMINAL: INSTALLATION;  
6 MODIFICATION REQUEST. (a) A video lottery terminal provider is  
7 responsible for the assembly and installation of all video lottery  
8 terminals and other video lottery equipment.

9 (b) A video lottery terminal provider or a video lottery  
10 retailer or video lottery manager may not change the assembly or  
11 operational functions of a video lottery terminal authorized by the  
12 commission for placement in this state unless a request for  
13 modification of an existing video lottery terminal prototype is  
14 approved by the commission. The request must contain:

- 15 (1) a detailed description of the type of change;  
16 (2) a detailed description of the reasons for the  
17 change; and  
18 (3) technical documentation of the change.

19 (c) A video lottery terminal approved by the commission for  
20 placement at a video lottery terminal establishment must conform to  
21 the specifications of the video lottery terminal prototype tested  
22 or approved by the commission.

23 Sec. 466.528. VIDEO LOTTERY TERMINAL REMOVAL. (a) If any  
24 video lottery terminal that has not been approved by the commission  
25 is distributed by a video lottery terminal provider or operated by a  
26 video lottery retailer or video lottery manager or if an approved  
27 video lottery terminal malfunctions, the commission shall require

1 the terminal to be removed from use and play.

2 (b) The commission may order that an unapproved terminal be  
3 seized and destroyed.

4 (c) The commission may suspend or revoke the license of a  
5 video lottery retailer or video lottery manager or the registration  
6 of a video lottery terminal provider for the distribution,  
7 possession, or operation of an unauthorized video lottery terminal.

8 (d) A video lottery retailer or video lottery manager may  
9 retain on the premises of a video lottery establishment a number of  
10 machines that the retailer or manager determines is necessary for  
11 spare parts or repair purposes or as replacements. The retailer or  
12 manager must provide to the commission each month a list of the  
13 terminals retained under this subsection.

14 Sec. 466.529. VIDEO LOTTERY TERMINAL SPECIFICATIONS.

15 (a) The commission shall adopt rules for approval of video lottery  
16 terminals, including requirements for video lottery tickets,  
17 maximum and minimum payout, and maximum wagers.

18 (b) A commission-approved video lottery terminal must meet  
19 the following minimum specifications:

20 (1) the terminal must:

21 (A) operate through a player's insertion of a  
22 coin, currency, voucher, or token into the video lottery terminal  
23 that causes the video lottery terminal to display credits that  
24 entitle the player to select one or more symbols or numbers or cause  
25 the video lottery terminal to randomly select symbols or numbers;

26 (B) allow the player to win additional game play  
27 credits, coins, or tokens based on game rules that establish the

1 random selection of winning combinations of symbols or numbers and  
2 the number of free play credits, coins, or tokens to be awarded for  
3 each winning combination; and

4 (C) allow the player at any time to clear all game  
5 play credits and receive a video lottery ticket or similar  
6 representation of credits entitling the player to receive the cash  
7 value of those credits;

8 (2) a surge protector must be installed on the  
9 electrical power supply line to each video lottery terminal, a  
10 battery or equivalent power backup for the electronic meters must  
11 be capable of maintaining the accuracy of all accounting records  
12 and video lottery terminal status reports for a period of 180 days  
13 after power is disconnected from the video lottery terminal, and  
14 the power backup device must be in the compartment specified in  
15 Subdivision (4);

16 (3) the operation of each video lottery terminal may  
17 not be adversely affected by any static discharge or other  
18 electromagnetic interference;

19 (4) the main logic boards of all electronic storage  
20 mediums must be located in a separate compartment in the video  
21 lottery terminal that is locked and sealed by the commission;

22 (5) the instructions for play of each game must be  
23 displayed on the video lottery terminal face or screen, including a  
24 display detailing the credits awarded for the occurrence of each  
25 possible winning combination of numbers or symbols;

26 (6) communication equipment and devices must be  
27 installed to enable each video lottery terminal to communicate with

1 the video lottery central system through the use of a  
 2 communications protocol provided by the commission to each  
 3 registered video lottery terminal provider, which must include  
 4 information retrieval and programs to activate and disable the  
 5 terminal; and

6 (7) a video lottery terminal may be operated only if  
 7 connected to the video lottery central system, and play on the  
 8 terminal may not be conducted unless the terminal is connected to  
 9 the video lottery central system.

10 (c) The commission may reject any instructions for play  
 11 required under Subsection (b)(5) that the commission determines to  
 12 be incomplete, confusing, or misleading.

13 Sec. 466.530. VIDEO LOTTERY TERMINALS: HOURS OF OPERATION;  
 14 COMMUNICATION; LOCATION; FEES. (a) Except as otherwise provided  
 15 by the commission, the hours of operation for video lottery  
 16 terminals are subject to restrictions only as provided by  
 17 commission rules.

18 (b) The commission by rule may prescribe restrictions on the  
 19 hours of video lottery terminal operations for purposes determined  
 20 by the commission, including accounting for and collecting revenue  
 21 generated by video lottery terminal operations and performing other  
 22 operational services on the video lottery system.

23 (c) Communication between the video lottery central system  
 24 and each video lottery terminal must be continuous and on a  
 25 real-time basis as prescribed by the commission.

26 (d) Except as provided by a gaming agreement or commission  
 27 rule, placement or movement of video lottery terminals in a video

1 lottery terminal establishment must be consistent with a video  
2 lottery terminal establishment floor plan filed with the  
3 commission.

4 (e) The commission shall adopt rules to charge a fee on  
5 video lottery terminals proposed to be operated in this state as  
6 follows:

7 (1) a video lottery terminal establishment operator  
8 shall file with the commission by January 1, 2006, a statement of  
9 the total number of video lottery terminals the operator intends  
10 to purchase and operate at the video lottery terminal  
11 establishment;

12 (2) after January 1, 2009, a video lottery terminal  
13 establishment operator may file a statement with the commission  
14 increasing the number of video lottery terminals the operator  
15 intends to operate at the video lottery terminal establishment;

16 (3) a video lottery terminal establishment shall pay a  
17 fee of \$10,000 for each terminal listed in a statement filed under  
18 this subsection in the following manner:

19 (A) one-half of the fee is due and payable on the  
20 date the statement is filed; and

21 (B) the remainder of the fee is due and payable on  
22 the date the video lottery terminal establishment accepts delivery  
23 of the first video lottery terminals; and

24 (4) after January 1, 2007, a video lottery terminal  
25 establishment shall pay an annual fee to the commission of \$1,000  
26 for the number of video lottery machines listed in the statement  
27 filed with the commission under this section.

1       Sec. 466.531. VIDEO LOTTERY TERMINAL: TRANSPORT;  
2 DISPOSITION OF OBSOLETE TERMINAL. (a) The transportation and  
3 movement of video lottery terminals into or within this state is  
4 prohibited, except as permitted by this subchapter and approved by  
5 the commission.

6       (b) An obsolete video lottery terminal or a video lottery  
7 terminal that is no longer in operation must be promptly reported to  
8 the commission.

9       Sec. 466.532. TRAVEL AND INVESTIGATION COSTS. The  
10 commission shall pay the travel and investigative expenses incurred  
11 under this chapter from money appropriated to the commission.

12       Sec. 466.533. CONSENT TO COMMISSION DETERMINATION. (a) An  
13 application for a license, registration, finding of suitability, or  
14 other approval under this chapter constitutes a request to the  
15 commission for a decision on the applicant's general suitability,  
16 character, integrity, and ability to participate or engage in or be  
17 associated with the lottery in the manner or position sought.

18       (b) By filing an application with the commission, the  
19 applicant specifically consents to the commission's decision at the  
20 commission's election when the application, after filing, becomes  
21 moot for any reason other than death.

22       Sec. 466.534. ABSOLUTE AUTHORITY OF COMMISSION. To protect  
23 the integrity of the lottery or the public health, welfare, or  
24 safety, or to prevent financial loss to this state, the commission  
25 has full and absolute power and authority to:

26       (1) deny any application or limit, condition,  
27 restrict, revoke, or suspend any license, registration, or finding

1 of suitability or approval; and

2 (2) fine any person licensed, registered, found  
3 suitable, or approved for any cause deemed reasonable by the  
4 commission.

5 Sec. 466.535. WAIVER OF REQUIREMENTS. (a) The commission  
6 may waive any requirement under this chapter for a finding of  
7 suitability of an institutional investor that is a substantial  
8 interest holder with respect to the beneficial ownership of the  
9 voting securities of a publicly traded corporation if the  
10 institutional investor holds the securities for investment  
11 purposes only and applies for a waiver in compliance with Section  
12 466.536 and commission rules.

13 (b) An institutional investor is not eligible for the  
14 waiver, except as otherwise provided by Subsection (e), if the  
15 institutional investor beneficially owns, directly or indirectly,  
16 more than 15 percent of the voting securities and if any of the  
17 voting securities were acquired other than through a debt  
18 restructuring.

19 (c) Voting securities acquired before a debt restructuring  
20 and retained after a debt restructuring or as a result of an  
21 exchange, exercise, or conversion after a debt restructuring, or  
22 any securities issued to the institutional investor through a debt  
23 restructuring, are considered to have been acquired through a debt  
24 restructuring.

25 (d) A waiver granted under Subsection (a) is effective only  
26 as long as the institutional investor's direct or indirect  
27 beneficial ownership interest in the voting securities meets the

1 limitations set forth in this section, and if the institutional  
2 investor's interest exceeds the limitation at any time, the  
3 investor is subject to the suitability findings required under this  
4 subchapter.

5 (e) An institutional investor that has been granted a waiver  
6 under Subsection (a) may beneficially own more than 15 percent, but  
7 not more than 19 percent, of the voting securities of a publicly  
8 traded corporation registered with or licensed by the commission  
9 only:

10 (1) if the additional ownership results from a stock  
11 repurchase program conducted by the publicly traded corporation;  
12 and

13 (2) on the conditions that:

14 (A) the institutional investor does not purchase  
15 or otherwise acquire any additional voting securities of the  
16 publicly traded corporation that would result in an increase in the  
17 institutional investor's ownership percentage; and

18 (B) the institutional investor reduces its  
19 ownership percentage of the publicly traded corporation to 15  
20 percent or less before the first anniversary of the date the  
21 institutional investor receives constructive notice that it  
22 exceeded the 15 percent threshold, based on any public filing by the  
23 corporation with the United States Securities and Exchange  
24 Commission.

25 (f) The one-year time period under Subsection (e)(2)(B) may  
26 be extended for a reasonable time on commission approval.

27 (g) An institutional investor may not be considered to hold

1 voting securities of a publicly traded corporation for investment  
2 purposes only unless the voting securities were acquired and are  
3 held in the ordinary course of business as an institutional  
4 investor and not for the purpose of causing, directly or  
5 indirectly, the election of a majority of the members of the board  
6 of directors, any change in the corporate charter, bylaws,  
7 management, policies, or operations of the corporation registered  
8 with or licensed by the commission or any of its gaming affiliates,  
9 or any other action which the commission finds to be inconsistent  
10 with investment purposes only. The following activities may not be  
11 considered to be inconsistent with holding voting securities for  
12 investment purposes only:

13 (1) voting, directly or indirectly through the  
14 delivery of a proxy furnished by the board of directors, on all  
15 matters voted on by the holders of the voting securities;

16 (2) serving as a member of any committee of creditors  
17 or security holders formed in connection with a debt restructuring;

18 (3) nominating any candidate for election or  
19 appointment to the board of directors in connection with a debt  
20 restructuring;

21 (4) accepting appointment or election as a member of  
22 the board of directors in connection with a debt restructuring and  
23 serving in that capacity until the conclusion of the member's term;

24 (5) making financial and other inquiries of management  
25 of the type normally made by securities analysts for information  
26 purposes and not to cause a change in management, policies, or  
27 operations; and

1           (6) any other activity the commission determines to be  
2 consistent with the investment intent.

3           (h) For purposes of this section, "debt restructuring"  
4 means:

5           (1) a proceeding under the United States Bankruptcy  
6 Code; or

7           (2) any out-of-court reorganization of a person that  
8 is insolvent or generally unable to pay the person's debts as they  
9 become due.

10          Sec. 466.536. WAIVER APPLICATION REQUIREMENTS. An  
11 application for a waiver under Section 466.535(a) must include:

12           (1) a description of the institutional investor's  
13 business and a statement as to why the institutional investor meets  
14 the definition of an institutional investor set forth in this  
15 chapter;

16           (2) a certification, made under oath and penalty of  
17 perjury, that:

18                   (A) states that the voting securities were  
19 acquired and are held for investment purposes only in accordance  
20 with Section 466.535;

21                   (B) provides that the applicant agrees to be  
22 bound by and comply with this chapter and the rules adopted under  
23 this chapter, to be subject to the jurisdiction of the courts of  
24 this state, and to consent to this state as the choice of forum in  
25 the event any dispute, question, or controversy arises regarding  
26 the application or any waiver granted under Section 466.535(a); and

27                   (C) includes a statement by the signatory

1 explaining the basis of the signatory's authority to sign the  
2 certification and bind the institutional investor to its terms;

3 (3) a description of all actions, if any, taken or  
4 expected to be taken by the institutional investor related to the  
5 activities described in Section 466.535(e);

6 (4) the names, addresses, telephone numbers, dates of  
7 birth, and social security numbers of:

8 (A) the officers and directors of the  
9 institutional investor or the officers' and directors' equivalents;  
10 and

11 (B) the persons that have direct control over the  
12 institutional investor's holdings of voting securities of the  
13 publicly traded corporation registered with or licensed by the  
14 commission;

15 (5) the name, address, telephone number, date of  
16 birth, and social security number or federal tax identification  
17 number of each person who has the power to direct or control the  
18 institutional investor's exercise of its voting rights as a holder  
19 of voting securities of the publicly traded corporation registered  
20 with or licensed by the commission;

21 (6) the name of each person that beneficially owns  
22 more than five percent of the institutional investor's voting  
23 securities or other equivalent;

24 (7) a list of the institutional investor's affiliates;

25 (8) a list of all securities of the publicly traded  
26 corporation registered with or licensed by the commission that are  
27 or were beneficially owned by the institutional investor or its

1 affiliates in the preceding year, including a description of the  
2 securities, the amount of the securities, and the date of  
3 acquisition or sale of the securities;

4 (9) a list of all regulatory agencies with which the  
5 institutional investor or any affiliate that beneficially owns  
6 voting securities of the publicly traded corporation registered  
7 with or licensed by the commission files periodic reports, and the  
8 name, address, and telephone number of the person, if known, to  
9 contact at each agency regarding the institutional investor;

10 (10) a disclosure of all criminal or regulatory  
11 sanctions imposed during the preceding 10 years and of any  
12 administrative or court proceedings filed by any regulatory agency  
13 during the preceding five years against the institutional investor,  
14 its affiliates, any current officer or director, or any former  
15 officer or director whose tenure ended within the preceding 12  
16 months, except that for a former officer or director, the  
17 information need be provided only to the extent that it relates to  
18 actions arising out of or during the person's tenure with the  
19 institutional investor or its affiliates;

20 (11) a copy of the institutional investor's most  
21 recent Schedule 13D or 13G and any amendments to that schedule filed  
22 with the United States Securities and Exchange Commission  
23 concerning any voting securities of the publicly traded corporation  
24 registered with or licensed by the commission;

25 (12) a copy of any filing made under the Securities  
26 Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) with respect to  
27 the acquisition or proposed acquisition of voting securities of the

1 publicly traded corporation registered with or licensed by the  
2 commission; and

3 (13) any additional information the commission may  
4 request.

5 Sec. 466.537. CHANGE IN INVESTMENT FOLLOWING WAIVER;  
6 NOTICE. (a) An institutional investor that has been granted a  
7 waiver of a finding of suitability under Section 466.535 and that  
8 subsequently intends not to hold the investor's voting securities  
9 of the publicly traded corporation for investment purposes only or  
10 that intends to take any action inconsistent with the investor's  
11 prior intent shall, not later than the second business day after the  
12 date of the decision, deliver notice to the commission in writing of  
13 the change in the investor's investment intent. The commission may  
14 then take any action the commission deems appropriate.

15 (b) If the commission finds that an institutional investor  
16 has failed to comply with this chapter or should be subject to a  
17 finding of suitability to protect the public interest, the  
18 commission may require the institutional investor to apply for a  
19 finding of suitability.

20 (c) Any publicly traded corporation registered with or  
21 licensed by the commission shall immediately notify the commission  
22 of any information about, fact concerning, or actions of an  
23 institutional investor holding any of its voting securities that  
24 may materially affect the institutional investor's eligibility to  
25 hold a waiver under Section 466.535.

26 Sec. 466.538. EFFECT OF DENIAL OF LICENSE OR REGISTRATION.  
27 (a) A person whose application for a license or registration has

1 been denied may not have any interest in or association with a video  
2 lottery retailer or video lottery manager or any other business  
3 conducted in connection with video lottery without prior approval  
4 of the commission.

5 (b) Any contract between a person holding a license or  
6 registration and a person denied a license or registration must be  
7 terminated immediately on receipt of notice from the commission.  
8 If the person denied a license or registration has previously been  
9 granted a temporary license or registration, the temporary license  
10 or registration expires immediately on denial of the permanent  
11 license or registration.

12 (c) Except as otherwise authorized by the commission, a  
13 person denied a license or registration may not reapply for any  
14 license or registration before the second anniversary of the date  
15 of the denial.

16 Sec. 466.539. PRACTICE BY VIDEO LOTTERY RETAILER OR VIDEO  
17 LOTTERY MANAGER. A video lottery retailer or video lottery manager  
18 must:

19 (1) be aware of patron conditions and prohibit play by  
20 visibly intoxicated patrons;

21 (2) comply with state alcoholic beverage control laws;

22 (3) at all times maintain sufficient change and cash  
23 in denominations accepted by video lottery terminals;

24 (4) promptly report all video lottery terminal  
25 malfunctions and downtime;

26 (5) install, post, and display prominently any  
27 material required by the commission;

1           (6) prohibit illegal gambling and any related  
2 paraphernalia;

3           (7) except as otherwise provided by this subchapter,  
4 at all times prohibit money lending or other extensions of credit at  
5 the video lottery terminal establishment;

6           (8) supervise employees and activities to ensure  
7 compliance with all commission rules and this chapter;

8           (9) maintain continuous camera coverage of all aspects  
9 of video lottery game operations, including video lottery  
10 terminals; and

11           (10) maintain an entry log for each video lottery  
12 terminal on the premises of the video lottery terminal  
13 establishment and maintain and submit complete records on receipt  
14 of each video lottery terminal on the premises as determined by the  
15 commission.

16           Sec. 466.540. RACETRACK REQUIREMENTS. (a) A video lottery  
17 retailer at all times must hold a valid pari-mutuel wagering  
18 license, except that the commission may allow a person whose  
19 pari-mutuel wagering license has lapsed or been revoked, suspended,  
20 or surrendered to reapply for a license in order to operate the  
21 video lottery terminal establishment or by rule may establish a  
22 period not to exceed two years during which time the video lottery  
23 terminal establishment may be operated pending acquisition by a  
24 person qualified and licensed under this chapter to operate video  
25 lottery terminals.

26           (b) If a video lottery retailer is not licensed as required  
27 by Subsection (a) before the second anniversary of the date a

license lapses or is revoked, suspended, or surrendered or a new video lottery manager or video lottery retailer is not licensed and authorized to operate the facility before the second anniversary, the pari-mutuel license holder shall permanently lose eligibility under this subchapter to operate video lottery terminals.

(c) Subject to the commission's discretion, a video lottery retailer may continue to operate the video lottery terminal establishment after the second anniversary of the date a license lapses or is revoked, suspended, or surrendered only to satisfy the establishment's existing outstanding debt attributable to video lottery operation.

Sec. 466.541. PRIZE RULES. The commission shall adopt rules governing:

(1) the range of amounts a player may be charged to play each video lottery game; and

(2) the range of prizes and credits that may be awarded to the player of a video lottery game.

Sec. 466.542. VIDEO LOTTERY CENTRAL SYSTEM: COMMUNICATION TECHNOLOGY. The video lottery central system provider shall pay for the installation and operation of commission-approved communication technology to provide real-time communication between each video lottery terminal and the video lottery central system.

Sec. 466.543. RESPONSIBILITY FOR VIDEO LOTTERY GAME OPERATIONS. (a) A video lottery retailer or a video lottery manager, if applicable, is responsible for the management of video lottery game operations, including:

1           (1) the validation and payment of prizes; and

2           (2) the management of cashiers, food and beverage  
3 workers, floor workers, security personnel, the security system,  
4 building completion, janitorial services, landscaping design, and  
5 maintenance.

6           (b) Nothing in Subsection (a) limits the authority of the  
7 commission, the Department of Public Safety, or another law  
8 enforcement agency to administer and enforce this chapter as  
9 related to video lottery.

10          (c) In addition to other requirements under this chapter  
11 relating to video lottery, a video lottery retailer or a video  
12 lottery manager at all times shall:

13           (1) operate only video lottery terminals that are  
14 distributed by a registered video lottery terminal provider and  
15 provide a secure location for the placement, operation, and play of  
16 the video lottery terminals;

17           (2) prevent any person from tampering with or  
18 interfering with the operation of a video lottery terminal;

19           (3) ensure that communication technology from the  
20 video lottery central system to the video lottery terminals is  
21 connected at all times and prevent any person from tampering or  
22 interfering with the operation of the connection;

23           (4) ensure that video lottery terminals are in the  
24 sight and control of designated employees of the video lottery  
25 retailer or video lottery manager and in the sight of video cameras  
26 as required under this subchapter;

27           (5) ensure that video lottery terminals are placed and

1 remain placed in the locations in the video lottery terminal  
2 establishment that are consistent with the retailer's or manager's  
3 floor plan;

4 (6) monitor video lottery terminals to prevent access  
5 to or play by persons who are under 21 years of age or who are  
6 visibly intoxicated;

7 (7) refuse to accept a credit card payment from a  
8 player for the exchange or purchase of video lottery game credits or  
9 for an advance of coins, currency, vouchers, or tokens to be used by  
10 a player to play video lottery games, refuse to extend credit, in  
11 any manner, to a player that enables the player to play a video  
12 lottery game, and ensure that any person doing business at the video  
13 lottery terminal establishment, including a person operating or  
14 managing an auxiliary service such as a restaurant, refuses to  
15 accept a credit card payment or to extend credit to a person to play  
16 a video lottery game in a manner prohibited by this subdivision,  
17 except that:

18 (A) a license holder may cash a check for a player  
19 if the license holder exercises reasonable caution cashing the  
20 check and does not cash checks for any player in an amount that  
21 exceeds \$1,000 in any 24-hour period; and

22 (B) automated teller machines may be located at a  
23 video lottery terminal establishment in compliance with the Texas  
24 Racing Act (Article 179e, Vernon's Texas Civil Statutes) or an  
25 effective gaming agreement;

26 (8) pay all credits won by a player on presentment of a  
27 valid winning video lottery ticket;

1           (9) conduct only the video lottery game advertising  
2 and promotional activities consistent with criteria prescribed by  
3 the commission, which must prohibit undue influence, offensive  
4 language, and anything that would affect the integrity of video  
5 lottery operation;

6           (10) install, post, and display prominently at the  
7 licensed location redemption information and other informational  
8 or promotional materials as required by the commission;

9           (11) maintain general liability insurance coverage  
10 for the video lottery terminal establishment and all video lottery  
11 terminals in the amounts required by the commission;

12           (12) assume liability for money lost or stolen from  
13 any video lottery terminal; and

14           (13) annually submit an audited financial statement to  
15 the commission in accordance with generally accepted accounting  
16 principles.

17           Sec. 466.544. TECHNICAL STANDARDS FOR VIDEO LOTTERY  
18 EQUIPMENT. The commission by rule shall establish minimum  
19 technical standards for video lottery equipment that may be  
20 operated in this state.

21           Sec. 466.545. INCIDENT REPORTS. (a) A video lottery  
22 retailer or video lottery manager shall record all unusual  
23 occurrences related to gaming activity in a video lottery terminal  
24 establishment operated by the retailer or manager.

25           (b) A video lottery retailer or video lottery manager shall  
26 assign each material incident, without regard to materiality, a  
27 sequential number and, at a minimum, provide the following

1 information in a permanent record prepared in accordance with  
2 commission rules to ensure the integrity of the record:

- 3 (1) the number assigned to the incident;  
4 (2) the date and time of the incident;  
5 (3) the nature of the incident;  
6 (4) each person involved in the incident; and  
7 (5) the name of the employee or other agent of the  
8 video lottery retailer or video lottery manager who investigated  
9 the incident.

10 Sec. 466.546. EXCLUSION OF PERSONS. (a) The commission  
11 shall compile a list of persons that a video lottery retailer or  
12 video lottery manager must bar from a video lottery terminal  
13 establishment based on a person's criminal history or association  
14 with criminal offenders or because the person poses a threat to the  
15 integrity of the lottery.

16 (b) A video lottery retailer or video lottery manager shall  
17 employ the retailer's or manager's best efforts to exclude such  
18 persons from entry into the establishment.

19 (c) A video lottery retailer or video lottery manager may  
20 exclude a person for any reason not related to the person's race,  
21 sex, national origin, physical disability, or religion.

22 (d) A person who believes the person may be playing video  
23 lottery games on a compulsive basis may request that the person's  
24 name be placed on the list compiled by the commission under  
25 Subsection (a).

26 (e) All video lottery game employees shall receive training  
27 in identifying players with a compulsive playing problem. Signs

1 and other materials shall be readily available to direct compulsive  
2 players to agencies that offer appropriate counseling.

3 Sec. 466.547. REPORT ON LITIGATION. (a) A video lottery  
4 retailer or video lottery manager shall report to the commission  
5 any litigation relating to the retailer's or manager's video  
6 lottery terminal establishment, including a criminal proceeding, a  
7 proceeding involving an issue related to racing activities that  
8 impact video lottery operations, or a matter related to character  
9 or reputation relevant to a person's suitability under this  
10 subchapter.

11 (b) The report required under Subsection (a) must be filed  
12 not later than the fifth day after acquiring knowledge of the  
13 litigation.

14 Sec. 466.548. COMMISSION APPROVAL REQUIRED FOR PROCEDURES  
15 AND ADMINISTRATIVE AND ACCOUNTING CONTROLS. (a) The commission's  
16 approval is required for all internal procedures and administrative  
17 and accounting controls of a video lottery retailer or video  
18 lottery manager.

19 (b) The commission by rule shall establish general  
20 accounting and auditing requirements and internal control  
21 standards for video lottery retailers and video lottery managers.

22 Sec. 466.549. VIDEO LOTTERY TERMINAL EVENTS. A video  
23 lottery retailer or video lottery manager shall keep a record of  
24 video lottery terminal events. The commission by rule shall  
25 determine what constitutes a video lottery terminal event for  
26 purposes of this section.

27 Sec. 466.550. EMPLOYEE REPORTING. (a) On or before the

1 15th day of each month, a video lottery retailer or video lottery  
2 manager shall submit to the commission an employee report for the  
3 video lottery terminal establishment operated by the retailer or  
4 manager. For each employee of the retailer or manager, the report  
5 must provide the employee's name, job title, date of birth, and  
6 social security number.

7 (b) The employee report is confidential and may not be  
8 disclosed except under commission order or in accordance with  
9 Section 466.022(d).

10 (c) The commission may conduct criminal history  
11 investigations for employees of video lottery retailers and video  
12 lottery managers.

13 (d) The commission may prohibit an employee from performing  
14 any act relating to video lottery terminals if the commission finds  
15 that an employee has:

16 (1) committed, attempted, or conspired to commit any  
17 act prohibited by this chapter;

18 (2) concealed or refused to disclose any material fact  
19 in any commission investigation;

20 (3) committed, attempted, or conspired to commit  
21 larceny or embezzlement;

22 (4) been convicted in any jurisdiction of an offense  
23 involving or relating to gambling;

24 (5) accepted employment in a position for which  
25 commission approval is required after commission approval was  
26 denied for a reason involving personal unsuitability or after  
27 failing to apply for a license or approval on commission request;

1           (6) been prohibited under color of governmental  
2 authority from being present on the premises of any gaming  
3 establishment or any establishment where pari-mutuel wagering is  
4 conducted for any reason relating to improper gambling activity or  
5 for any illegal act;

6           (7) wilfully defied any legislative investigative  
7 committee or other officially constituted body acting on behalf of  
8 the United States or any state, county, or municipality that sought  
9 to investigate alleged or potential crimes relating to gaming,  
10 corruption of public officials, or any organized criminal  
11 activities; or

12           (8) been convicted of any felony or any crime  
13 involving moral turpitude.

14           (e) The commission may prohibit an employee from performing  
15 any act relating to video lottery terminals based on a revocation or  
16 suspension of any gaming or wagering license, permit, or approval  
17 or for any other reason the commission finds appropriate, including  
18 a refusal by a regulatory authority to issue a license, permit, or  
19 other approval for the employee to engage in or be involved with the  
20 lottery or with regulated gaming or pari-mutuel wagering in any  
21 jurisdiction.

22           (f) In this section, "employee" includes any person  
23 connected directly with or compensated by an applicant or license  
24 holder as an agent, personal representative, consultant, or  
25 independent contractor for activities directly related to video  
26 lottery operations.

27           Sec. 466.551. REPORT OF VIOLATIONS. A person who holds a

license or registration under this subchapter shall immediately report a violation or suspected violation of this chapter or a rule adopted under this chapter by any license or registration holder, by an employee of a license or registration holder, or by any person on the premises of a video lottery terminal establishment, whether or not associated with the license or registration holder.

Sec. 466.552. SECURITY. (a) In addition to the security provisions applicable under Section 466.020, a video lottery retailer or video lottery manager shall comply with the following security procedures:

(1) all video lottery terminals must be continuously monitored through the use of a closed-circuit television system that records activity for a continuous 24-hour period and all videotapes or other media used to store video images shall be retained for at least 30 days and made available to the commission on request;

(2) access to video lottery terminal areas shall be restricted to persons who are at least 21 years of age;

(3) the video lottery retailer or video lottery manager must provide to the commission a security plan that includes a floor plan of the area where video lottery terminals are to be operated showing video lottery terminal locations and security camera mount locations; and

(4) each license holder shall employ at least the minimum number of private security personnel the commission determines is necessary to provide for safe and approved operation of the video lottery terminal establishment and the safety and

1 well-being of the players.

2 (b) Private security personnel must be present during all  
3 hours of operation at each video lottery terminal establishment.

4 (c) An agent or employee of the commission or the Department  
5 of Public Safety or other law enforcement personnel may be present  
6 at a video lottery terminal establishment at any time.

7 (d) The commission may adopt rules to impose additional  
8 surveillance and security requirements related to video lottery  
9 terminal establishments and the operation of video lottery  
10 terminals.

11 Sec. 466.553. VIDEO LOTTERY TERMINAL ESTABLISHMENT:  
12 COMMISSION RIGHT TO ENTER. The commission, the commission's  
13 representative, the Texas Racing Commission, or a representative of  
14 the Texas Racing Commission, after displaying appropriate  
15 identification and credentials, has the free and unrestricted right  
16 to enter the premises of a video lottery terminal establishment and  
17 to enter any other locations involved in operation or support of  
18 video lottery at all times to examine the systems and to inspect and  
19 copy the records of a video lottery retailer or video lottery  
20 manager pertaining to the operation of video lottery.

21 Sec. 466.554. INDEMNIFICATION, INSURANCE, AND BONDING  
22 REQUIREMENTS. (a) A license or registration holder shall  
23 indemnify and hold harmless this state, the commission, and all  
24 officers and employees of this state and the commission from any and  
25 all claims which may be asserted against a license or registration  
26 holder, the commission, this state, and the members, officers,  
27 employees, and authorized agents of this state or the commission

1 arising from the license or registration holder's participation in  
2 the video lottery system authorized under this subchapter.

3 (b) Surety and insurance required under this subchapter  
4 shall be issued by companies or financial institutions financially  
5 rated "A" or better as rated by A.M. Best Company or other rating  
6 organization designated by the commission and duly licensed,  
7 admitted, and authorized to conduct business in this state, or by  
8 other surety approved by the commission.

9 (c) The commission shall be named as the obligee in each  
10 required surety and as an additional insured in each required  
11 insurance contract.

12 (d) A video lottery retailer or video lottery manager may  
13 not be self-insured with regard to video lottery terminal  
14 operations under this section.

15 (e) The commission by rule shall establish minimum  
16 insurance coverage requirements for a video lottery retailer, video  
17 lottery manager, or video lottery terminal provider.

18 Sec. 466.555. LIABILITY FOR CREDIT AWARDED OR DENIED;  
19 PLAYER DISPUTE. (a) This state and the commission are not liable  
20 for any video lottery terminal malfunction or error by a video  
21 lottery retailer, video lottery manager, or video lottery terminal  
22 provider that causes credit to be wrongfully awarded or denied to  
23 players.

24 (b) Any dispute arising between a player and a video lottery  
25 retailer or video lottery manager shall be resolved by the  
26 commission as follows:

27 (1) if the fair market value of the prize is less than

1 \$1,000, the dispute shall be resolved in accordance with the  
2 commission-approved written policies of the video lottery retailer  
3 or video lottery manager and without any relief available from the  
4 commission or this state; or

5 (2) if the fair market value of the prize is \$1,000 or  
6 more, the dispute shall be resolved by the commission in the  
7 commission's sole discretion in accordance with commission rules.

8 (c) A court of this state does not have jurisdiction to  
9 review the decision of the commission resolving a dispute between a  
10 player and a video lottery retailer, video lottery manager, or  
11 video lottery terminal provider.

12 Sec. 466.556. STATE VIDEO LOTTERY ACCOUNT. (a) The  
13 commission shall deposit funds received under this subchapter to  
14 the state video lottery account. The state video lottery account is  
15 a special account in the general revenue fund. The account consists  
16 of all revenue received by this state from the operation of video  
17 lottery terminals.

18 (a-1) Except as provided by Subsection (b), all revenue  
19 received by this state from the operation of the video lottery  
20 system shall be distributed solely to reimburse the commission  
21 until the \$5 million authorized under this subsection is repaid to  
22 the state lottery account. From funds previously appropriated to  
23 the commission for the state fiscal biennium ending August 31,  
24 2007, and notwithstanding Section 466.355(b), the commission is  
25 authorized to expend an amount not to exceed \$5 million from the  
26 state lottery account during that biennium to establish the video  
27 lottery system in accordance with this chapter. From revenue

1 deposited in the state video lottery account during that biennium,  
2 the commission is hereby appropriated the amount necessary to  
3 reimburse the state lottery account for the total amount of funds  
4 expended to establish the video lottery system from the  
5 appropriation to the state lottery account, and the commission  
6 shall deposit that amount to the state lottery account. This  
7 subsection expires January 1, 2009.

8 (b) Two percent of the net terminal income received by this  
9 state under Section 466.557 shall be allocated to the commission to  
10 defray expenses incurred in administering this chapter related to  
11 video lottery, including expenses incurred to operate the video  
12 lottery central system. All money allocated to the commission  
13 under this subsection may be retained by the commission to defray  
14 expenses of administering this chapter related to video lottery and  
15 shall be deposited in the state video lottery account.

16 Sec. 466.557. ALLOCATION OF NET TERMINAL INCOME; TRANSFER  
17 OF MONEY. (a) Net terminal income derived from the operation of  
18 video lottery games in this state is allocated as follows:

19 (1) a portion of the net terminal income generated in  
20 each calendar year shall be remitted to this state by the video  
21 lottery retailer or video lottery manager in an amount equal to 30  
22 percent of the net terminal income for that year; and

23 (2) the remainder shall be retained by the video  
24 lottery retailer or video lottery manager.

25 (b) Net terminal income derived from the operation of video  
26 lottery terminals on Indian lands under a gaming agreement  
27 authorized under this subchapter shall be distributed as set forth

1 in the gaming agreement, provided that the agreement must provide  
 2 that this state shall receive no more than 25 percent of the net  
 3 terminal income.

4 (c) One-quarter of one percent of the net terminal income  
 5 received by this state under Subsections (a) and (b) shall be  
 6 transferred to the Texas Commission on Alcohol and Drug Abuse for  
 7 use in the compulsive gambling program under Section 461.018,  
 8 Health and Safety Code, if that program is in operation.

9 (d) One-quarter of one percent of the net terminal income  
 10 received by this state under Subsections (a) and (b) shall be  
 11 transferred to the Equine Research Program at the College of  
 12 Veterinary Medicine at Texas A&M University for use in equine  
 13 research under Subchapter F, Chapter 88, Education Code.

14 (e) The commission shall require a video lottery retailer or  
 15 video lottery manager to establish a separate electronic funds  
 16 transfer account for depositing money from video lottery terminal  
 17 operations, making payments to the commission or its designee, and  
 18 receiving payments from the commission or its designee.

19 (f) A video lottery retailer or video lottery manager may  
 20 not make payments to the commission in cash. As authorized by the  
 21 commission, a video lottery retailer or video lottery manager may  
 22 make payments to the commission by cashier's check.

23 (g) The commission at least weekly shall transfer this  
 24 state's share of net terminal income of a video lottery retailer or  
 25 video lottery manager to the commission through the electronic  
 26 transfer of the money.

27 (h) The commission by rule shall establish the procedures

1 for:

2 (1) depositing money from video lottery terminal  
3 operations into electronic funds transfer accounts; and

4 (2) handling money from video lottery terminal  
5 operations.

6 (i) Unless otherwise directed by the commission, a video  
7 lottery retailer or a video lottery manager shall maintain in its  
8 account this state's share of the net terminal income from the  
9 operation of video lottery terminals, to be electronically  
10 transferred by the commission on dates established by the  
11 commission. On a license holder's failure to maintain this  
12 balance, the commission may disable all of a license holder's video  
13 lottery terminals until full payment of all amounts due is made.  
14 Interest shall accrue on any unpaid balance at a rate consistent  
15 with the amount charged under Section 111.060, Tax Code. The  
16 interest shall begin to accrue on the date payment is due to the  
17 commission.

18 (j) In the commission's sole discretion, rather than  
19 disable a license holder's video lottery terminals under Subsection  
20 (i), the commission may elect to impose a fine on a license holder  
21 in an amount determined by the commission not to exceed \$250,000 for  
22 each violation. If the license holder fails to remedy the  
23 violation, including payment of any amounts assessed by or due to  
24 this state, within 10 days, the commission may disable the license  
25 holder's video lottery terminals or use any other means for  
26 collection as provided by the penalty chart established by the  
27 commission.

1       (k) A video lottery retailer or video lottery manager is  
2 solely responsible for resolving any income discrepancies between  
3 actual money collected and the net terminal income reported by the  
4 video lottery central system. Unless an accounting discrepancy is  
5 resolved in favor of the video lottery retailer or video lottery  
6 manager, the commission may not make any credit adjustments. Any  
7 accounting discrepancies which cannot otherwise be resolved shall  
8 be resolved in favor of the commission.

9       (l) A video lottery retailer and video lottery manager shall  
10 remit payment as directed by the commission if the electronic  
11 transfer of money is not operational or the commission notifies the  
12 license holder that other remittance is required. The license  
13 holder shall report this state's share of net terminal income and  
14 remit the amount generated from the terminals during the reporting  
15 period.

16       Sec. 466.558. COMMISSION EXAMINATION OF FINANCIAL RECORDS.  
17 The commission may examine all accounts, bank accounts, financial  
18 statements, and records in the possession or control of a person  
19 licensed under this subchapter or in which the license holder has an  
20 interest. The license holder must authorize and direct all third  
21 parties in possession or in control of the accounts or records to  
22 allow examination of any of those accounts or records by the  
23 commission.

24       Sec. 466.559. FINANCIAL INFORMATION REQUIRED. (a) A video  
25 lottery retailer or video lottery manager shall furnish to the  
26 commission all information and bank authorizations required to  
27 facilitate the timely transfer of money to the commission.

1       (b) A video lottery retailer or video lottery manager must  
2 provide the commission advance notice of any proposed account  
3 changes in information and bank authorizations to assure the  
4 uninterrupted electronic transfer of money.

5       (c) The commission is not responsible for any interruption  
6 or delays in the transfer of money. The video lottery retailer or  
7 video lottery manager is responsible for any interruption or delay  
8 in the transfer of money.

9       Sec. 466.560. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT  
10 RACETRACKS. (a) Unless otherwise agreed to under Subsection (c)  
11 by the pari-mutuel license holder that owns or operates a horse  
12 racetrack at which video lottery games are conducted under this  
13 subchapter and the officially recognized horsemen's organization  
14 representing the horsemen at the racetrack, the license holder  
15 shall allocate 6.5 percent of the net terminal income generated  
16 from the operation of video lottery terminals at the racetrack to  
17 purses.

18       (b) Unless otherwise agreed to under Subsection (c) by the  
19 pari-mutuel license holder that owns or operates a greyhound  
20 racetrack at which video lottery games are conducted under this  
21 subchapter and the state breed registry representing the greyhound  
22 breeders at the racetrack, the license holder shall allocate 6.5  
23 percent of the net terminal income generated from the operation of  
24 video lottery terminals at the racetrack to purses.

25       (c) The pari-mutuel license holder that owns or operates a  
26 racetrack at which video lottery games are conducted under this  
27 subchapter and the officially recognized horsemen's organization

representing the horsemen at the racetrack or the state breed registry representing the greyhound breeders at the racetrack may enter into a written agreement to allocate a different percentage of net terminal income to be used for purses at that racetrack.

(d) A state breed registry may use a portion, not to exceed 10 percent, of the amount allocated for purses under this section for administration as determined reasonable by the commission.

(e) The Texas Racing Commission shall adopt rules to administer this section. A matter considered by the commission under this section is a contested case under Chapter 2001, Government Code, and requires a public hearing.

(f) The Texas Greyhound Association may allocate up to 50 percent of the amount in Subsection (b) for Texas breeder awards.

Sec. 466.561. LIABILITY OF VIDEO LOTTERY RETAILER AND VIDEO LOTTERY MANAGER. (a) A video lottery retailer, video lottery manager, or both, are jointly and severally liable to the commission for the state's share of net terminal income reported by the video lottery central system.

(b) Net terminal income received by the video lottery retailer or video lottery manager is held in trust for the benefit of this state before delivery of the state's share to the commission or electronic transfer to the state treasury, and the video lottery retailer or video lottery manager, or both, are jointly and severally liable to the commission for the full amount of the money held in trust.

(c) If the video lottery retailer or video lottery manager is not an individual, each officer, director, or owner of the video

1 lottery retailer or video lottery manager is personally liable to  
 2 the commission for the full amount of the money held in trust,  
 3 except that shareholders of a publicly held corporation shall be  
 4 liable in an amount not to exceed the value of their equity  
 5 investment.

6 Sec. 466.562. PRIZE PAYMENT AND REDEMPTION. (a) Payment  
 7 of prizes is the sole and exclusive responsibility of the video  
 8 lottery retailer or video lottery manager. A prize may not be paid  
 9 by the commission or this state except as otherwise authorized.

10 (b) Nothing in this subchapter limits the ability of a video  
 11 lottery retailer or video lottery manager to provide promotional  
 12 prizes in addition to prize payouts regulated by the commission.

13 (c) A video lottery ticket must be redeemed not later than  
 14 the 180th day following the date of issuance. If a claim is not made  
 15 for prize money on or before the 180th day after the date on which  
 16 the video lottery ticket was issued, the prize money becomes the  
 17 property of the video lottery terminal establishment.

18 (d) The commission shall enact rules consistent with this  
 19 section governing the use and redemption of prizes and credits  
 20 recorded on electronic player account records, such as players'  
 21 club cards and smart cards.

22 Sec. 466.563. REVOCATION OF LICENSE, REGISTRATION, OR OTHER  
 23 REGULATORY APPROVAL. (a) The commission shall revoke or suspend a  
 24 license, registration, or other regulatory approval issued under  
 25 this subchapter if the holder of the license, registration, or  
 26 approval at any time fails to meet the eligibility requirements set  
 27 forth in this subchapter.

(b) Failure to timely remit revenue generated by video lottery terminals to the commission or any tax or other fee owed to this state as demonstrated by report from the applicable taxing authority or to timely file any report or information required under this subchapter as a condition of any license, registration, or other approval issued under this subchapter may be grounds for suspension or revocation, or both, of a license, registration, or other approval issued under this subchapter.

Sec. 466.564. HEARING FOR REVOCATION OR SUSPENSION OF REGISTRATION OR LICENSE. (a) Before the commission revokes or suspends a video lottery terminal provider's registration or video lottery retailer's or video lottery manager's license, or imposes monetary penalties for a violation of this subchapter, the commission shall provide written notification to the license or registration holder of the revocation, the period of suspension, or the monetary penalty. The notice shall include:

(1) the effective date of the revocation or the period of suspension or the amount of the monetary penalty, as applicable;

(2) each reason for the revocation, suspension, or penalty;

(3) an explanation of the evidence supporting the reasons;

(4) an opportunity to present the license or registration holder's position in response on or before the 15th day after the effective date of the revocation; and

(5) a statement explaining the person's right to an administrative hearing to determine whether the revocation,

1 suspension, or penalty is warranted.

2 (b) The notice required under Subsection (a) must be made by  
3 personal delivery or by mail to the person's mailing address as it  
4 appears on the commission's records.

5 (c) To obtain an administrative hearing on a suspension,  
6 revocation, or penalty under this section, a person must submit a  
7 written request for a hearing to the commission not later than the  
8 20th day after the date notice is delivered personally or is mailed.

9 (d) If the commission receives a timely request under  
10 Subsection (c), the commission shall provide the person with an  
11 opportunity for a hearing as soon as practicable. If the commission  
12 does not receive a timely request under Subsection (c), the  
13 commission may impose the penalty, revoke or suspend a license or  
14 registration, or sustain the revocation or suspension without a  
15 hearing.

16 (e) Except as provided by Subsection (g), the hearing must  
17 be held not earlier than the 11th day after the date the written  
18 request is submitted to the commission.

19 (f) The commission may provide that a revocation or  
20 suspension takes effect on receipt of notice under Subsection (a)  
21 if the commission finds that the action is necessary to prevent or  
22 remedy a threat to public health, safety, or welfare. The  
23 commission by rule shall establish a nonexclusive list of  
24 violations that present a threat to the public health, safety, or  
25 welfare.

26 (g) A hearing on a revocation or suspension that takes  
27 effect on receipt of notice must be held not later than the 14th day

1 after the date the commission receives the request for hearing  
2 under this section. The revocation or suspension continues in  
3 effect until the hearing is completed. If the hearing is continued,  
4 the revocation or suspension shall continue in effect beyond the  
5 14-day period at the request of the license or registration holder  
6 or on a finding of good cause by the commission or administrative  
7 law judge.

8 (h) To prevail in a post-deprivation administrative hearing  
9 under this section, the license or registration holder must  
10 demonstrate by clear and convincing evidence that the deprivation  
11 or imposition of a penalty was unwarranted or otherwise unlawful.  
12 The post-deprivation hearing may be conducted by the commission or  
13 referred to the State Office of Administrative Hearings.

14 (i) The administrative record created by the hearing  
15 conducted by the State Office of Administrative Hearings shall be  
16 provided to the commission for review and determination on the  
17 revocation or suspension.

18 (j) If an administrative law judge of the State Office of  
19 Administrative Hearings conducts a hearing under this section and  
20 the proposal for decision supports the commission's position, the  
21 administrative law judge shall include in the proposal a finding of  
22 the costs, fees, expenses, and reasonable and necessary attorney's  
23 fees this state incurred in bringing the proceeding.

24 (k) The commission may adopt the findings for costs, fees,  
25 and expenses and make the finding a part of the final order entered  
26 in the proceeding. Proceeds collected from a finding made under  
27 this section shall be paid to the commission.

1       Sec. 466.565. JUDICIAL REVIEW OF REVOCATION, SUSPENSION, OR  
2 PENALTY IMPOSITION. (a) A person aggrieved by a final decision of  
3 the commission to revoke or suspend a registration or license or to  
4 impose any monetary penalty may obtain judicial review before a  
5 district court in Travis County.

6       (b) The judicial review must be instituted by serving on the  
7 commission and filing a petition not later than the 20th day after  
8 the effective date of the final decision and must identify the order  
9 appealed from and the grounds or reason why the petitioner contends  
10 the decision of the commission should be reversed or modified.

11       (c) The review must be conducted by the court sitting  
12 without jury, and must not be a trial de novo but be confined to the  
13 record on review. The reviewing court may only affirm the decision,  
14 remand the case for further proceedings, or reverse the decision if  
15 the substantial rights of the petitioner have been violated.

16       Sec. 466.566. LICENSE OR REGISTRATION: AGREEMENT TO WAIVE  
17 ENFORCEABILITY. A license or registration holder by virtue of  
18 accepting the license or registration agrees that the privilege of  
19 holding a license or registration under this subchapter is  
20 conditioned on the holder's agreement to Sections 466.563-466.565  
21 and waives any right to challenge or otherwise appeal the  
22 enforceability of those sections.

23       Sec. 466.567. LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO  
24 LIABILITY OF STATE FOR ENFORCEMENT. (a) This state does not waive  
25 its sovereign immunity by negotiating gaming agreements with Indian  
26 tribes or other persons for the operation of video lottery  
27 terminals or other lottery games under this chapter. An actor or

agent on behalf of this state does not have any authority to waive the state's sovereign immunity absent an express legislative grant of the authority. The only waiver of sovereign immunity relative to video lottery terminal operations is that expressly provided for in this section.

(b) With regard to video lottery terminal operations on Indian lands, this state consents to the jurisdiction of the district court of the United States with jurisdiction in the county where the Indian lands are located or, if the federal court lacks jurisdiction, to the jurisdiction of a district court in Travis County, solely for the purpose of resolving disputes arising from a gaming agreement authorized under this subchapter for declaratory or injunctive relief or contract damages of \$100,000 or more. Any disputes relating to damages or other awards valued at less than \$100,000 shall be arbitrated under the rules of the American Arbitration Association; provided, however, that application of the rules may not be construed as a waiver of sovereign immunity.

(c) All financial obligations of the commission are payable solely out of the income, revenues, and receipts of the commission and are subject to statutory restrictions and appropriations.

(d) This state and the commission are not liable if performance by the commission is compromised or terminated by acts or omissions of the legislature or the state or federal judiciary.

(e) This state and the commission are not liable related to any enforcement of this chapter.

Sec. 466.568. ABSOLUTE PRIVILEGE OF REQUIRED COMMUNICATIONS AND DOCUMENTS. (a) Any communication, document,

1 or record of a video lottery central system provider, a video  
2 lottery terminal provider, a video lottery retailer, a video  
3 lottery manager, an applicant, or a license or registration holder  
4 or holder of a regulatory approval that is made or transmitted to  
5 the commission or any of its employees to comply with any law,  
6 including a rule of the commission, to comply with a subpoena issued  
7 by the commission, or to assist the commission or its designee in  
8 the performance of their respective duties is absolutely  
9 privileged, does not impose liability for defamation, and is not a  
10 ground for recovery in any civil action.

11 (b) If a communication, document, or record provided under  
12 Subsection (a) contains any information that is privileged under  
13 state law, that privilege is not waived or lost because the  
14 communication, document, or record is disclosed to the commission  
15 or any of the commission's employees.

16 (c) The commission shall maintain all privileged  
17 information, communications, documents, and records in a secure  
18 place as determined in the commission's sole discretion that is  
19 accessible only to members of the commission and authorized  
20 commission employees.

21 Sec. 466.569. INTELLECTUAL PROPERTY RIGHTS OF COMMISSION.  
22 The legislature finds and declares that the commission has the  
23 right to establish ownership of intellectual property rights for  
24 all lottery products, including video lottery terminals and related  
25 video lottery equipment.

26 Sec. 466.570. MODEL GAMING AGREEMENT. (a) The governor  
27 shall execute, at the governor's discretion as chief executive

1 officer of this state and on behalf of this state, a gaming  
2 agreement with the Ysleta del Sur Pueblo Indian tribe, the  
3 Alabama-Coushatta Indian tribe, or the Kickapoo Traditional Tribe  
4 of Texas containing the terms set forth in Subsection (b), as a  
5 ministerial act, without preconditions, not later than the 30th day  
6 after the date the governor receives a request from the tribe,  
7 accompanied by or in the form of a duly enacted resolution of the  
8 tribe's governing body, to enter into the gaming agreement.

9 (b) A gaming agreement executed under Subsection (a) must  
10 contain substantially the terms set forth in a model gaming  
11 agreement adopted by the attorney general and filed with the  
12 secretary of state. The attorney general shall adopt a model gaming  
13 agreement for purposes of this section, consistent with the  
14 applicable provisions of this chapter, and shall file the agreement  
15 with the secretary of state.

16 (c) An Indian tribe may operate video lottery games and  
17 video lottery terminals in accordance with a gaming agreement  
18 entered into under this section.

19 (d) A governor of this state may not amend, alter, or  
20 otherwise modify an agreement under this section until after the  
21 10th anniversary of the date the original agreement was signed by a  
22 governor of this state.

23 Sec. 466.571. VIDEO LOTTERY GAMES BY INDIAN TRIBES  
24 AUTHORIZED. (a) Notwithstanding any other law, an Indian tribe  
25 may operate video lottery games and video lottery terminals as  
26 authorized by this subchapter pursuant to a compact with the  
27 governor.

1        (b) To operate video lottery games under this section, an  
2 Indian tribe must be an Indian tribe as listed by the United States  
3 secretary of the interior under 25 U.S.C. Section 479a-1 on or  
4 before January 1, 1998, and must, on or before January 1, 1998, have  
5 had Indian lands within the boundaries of this state. At any time  
6 there may not be more than three Indian tribes operating video  
7 lottery games on Indian lands in this state.

8        (c) An Indian tribe may operate video lottery games under  
9 this section only on or immediately adjacent to Indian lands placed  
10 into trust by the United States for the benefit of the Indian tribe  
11 on or before January 1, 1998, that were held and occupied by the  
12 Indian tribe on or before January 1, 1998.

13        (d) A compact or agreement entered into under this section  
14 must contain provisions for the monitoring and auditing of the  
15 operation of video lottery games and any other gaming activity. The  
16 compact must:

17                (1) provide that the commission may inspect all public  
18 and nonpublic areas of the premises where the Indian tribe operates  
19 video lottery games or other gaming activity;

20                (2) require the conduct of an annual audit by the  
21 commission or an auditor selected by the commission of the Indian  
22 tribe's video lottery game operations; and

23                (3) provide that the commission may examine and review  
24 all financial records of the Indian tribe's video lottery game  
25 operations at any reasonable time.

26        (e) An agreement entered into under this section with a  
27 federally recognized Indian tribe, or an affiliated entity, to

1 allow the tribe or entity to operate video lottery games must  
2 provide that the tribe agrees to collect and remit to the  
3 comptroller all state sales and use taxes for all taxable goods and  
4 services sold on the tribe's Indian lands in this state and all  
5 state taxes on motor fuels, alcoholic beverages, cigarettes and  
6 tobacco products, and hotel occupancy sold on the tribe's Indian  
7 lands. In the case of a federally recognized Indian tribe, the  
8 requirement to collect and remit these state taxes does not apply to  
9 taxes on the sale, use, or consumption of an item by a member of the  
10 tribe. The agreement shall provide a method to secure payment of  
11 these taxes to this state.

12 (f) The comptroller may adopt rules to ensure that the  
13 exemption from the collection and remission of state taxes under  
14 Subsection (e) applies only to members of the tribe owning that  
15 tribal land.

16 SECTION 34. Section 467.001, Government Code, is amended by  
17 amending Subdivision (9) and adding Subdivision (12) to read as  
18 follows:

19 (9) "Person that has a significant financial interest  
20 in the lottery" means:

21 (A) a person or a board member, officer, trustee,  
22 or general partner of a person that manufactures, distributes,  
23 sells, or produces lottery equipment, video lottery equipment,  
24 video lottery games, video lottery central systems, supplies,  
25 services, or advertising;

26 (B) an employee of a video lottery terminal  
27 provider, video lottery central system provider, or person that

1 manufactures, distributes, sells, or produces lottery equipment,  
2 supplies, services, or advertising or video lottery equipment or  
3 games and that employee is directly involved in the manufacturing,  
4 distribution, selling, or production of lottery equipment,  
5 supplies, services, or advertising or video lottery equipment or  
6 games;

7 (C) a person or a board member, officer, trustee,  
8 or general partner of a person that has made a bid to operate the  
9 lottery in the preceding two years or that intends to make a bid to  
10 operate the lottery or an employee of the person if the employee is  
11 directly involved in making the bid; or

12 (D) a sales agent, video lottery retailer, video  
13 lottery manager, video lottery terminal provider, or video lottery  
14 central system provider.

15 (12) "Video lottery central system," "video lottery  
16 equipment," "video lottery game," "video lottery manager," "video  
17 lottery retailer," and "video lottery terminal provider" have the  
18 meanings assigned by Section 466.002.

19 SECTION 35. Subsection (a), Section 467.027, Government  
20 Code, is amended to read as follows:

21 (a) A commission member is ~~[not]~~ entitled to compensation  
22 for serving on the commission. The annual salary of the commission  
23 members is set by legislative appropriation.

24 SECTION 36. Section 467.031, Government Code, is amended to  
25 read as follows:

26 Sec. 467.031. DIVISIONS. The commission shall establish  
27 separate divisions to oversee bingo and the state lottery. The

1 commission may create a division to oversee video lottery and  
2 delegate responsibilities in the administration of Chapter 466 to  
3 the executive director, the director of the appropriate division,  
4 and the division's staff; provided, however, that the commission  
5 may not delegate the following actions:

6 (1) a final determination in any application or  
7 request for licensing or registration under Chapter 466;

8 (2) a final determination in any proceeding involving  
9 the suspension or revocation of a registration or license under  
10 Chapter 466;

11 (3) a final determination that Chapter 466 has been  
12 violated; or

13 (4) a final determination or imposition of an  
14 assessment of fines or penalties under a law administered by the  
15 commission.

16 SECTION 37. Subsection (a), Section 467.035, Government  
17 Code, is amended to read as follows:

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

20 (1) a bingo commercial lessor, bingo distributor, or  
21 bingo manufacturer; or

22 (2) a lottery sales agency, ~~or~~ a lottery operator, a  
23 video lottery retailer, a video lottery manager, a video lottery  
24 terminal provider, a video lottery central system provider, or a  
25 manufacturer of video lottery games.

26 SECTION 38. Section 467.108, Government Code, is amended to  
27 read as follows:

Sec. 467.108. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE.

(a) A former commission member, former executive director, or former director may not:

(1) ~~[for compensation]~~ represent a person, either with or without compensation, [that has made or intends to make a bid to operate the lottery] before the commission before the fifth ~~[second]~~ anniversary of the date that the person's service in office or employment with the commission ceases;

(2) represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of service or employment with the commission, either through personal involvement or because the matter was within the scope of the officer's or employee's official responsibility; or

(3) ~~[for compensation]~~ communicate on behalf of any person, whether compensated or not compensated, directly with a member of the legislative branch to influence legislation on behalf of a person that has any ~~[a significant financial]~~ interest in the lottery, before the fifth ~~[second]~~ anniversary of the date that the person's service in office or employment with the commission ceases.

(b) A person commits an offense if the person violates this section. An offense under this section is a felony of the third degree ~~[Class A misdemeanor]~~.

SECTION 39. Section 411.108, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The Texas Lottery Commission may obtain from the

1 department, subject to an interagency agreement entered into under  
2 Section 466.020(d) or 466.206, criminal history record information  
3 maintained by the department that relates to any natural person,  
4 corporation, association, trust, partnership, limited partnership,  
5 joint venture, government, subsidiary, or other entity, regardless  
6 of its form, structure, or nature that the commission has the  
7 authority to investigate under Chapter 466 as related to the  
8 commission's operation and oversight of video lottery. Criminal  
9 history record information obtained by the commission under this  
10 subsection may be released or disclosed only as provided in  
11 Sections 466.022(d) and 466.206.

12 SECTION 40. Subdivision (4), Section 47.01, Penal Code, is  
13 amended to read as follows:

14 (4) "Gambling device" means any electronic,  
15 electromechanical, or mechanical contrivance not excluded under  
16 Paragraph (B) that for a consideration affords the player an  
17 opportunity to obtain anything of value, the award of which is  
18 determined solely or partially by chance, even though accompanied  
19 by some skill, whether or not the prize is automatically paid by the  
20 contrivance. The term:

21 (A) includes, but is not limited to, gambling  
22 device versions of bingo, keno, blackjack, lottery, roulette, video  
23 poker, slot machines, or similar electronic, electromechanical, or  
24 mechanical games, or facsimiles thereof, that operate by chance or  
25 partially so, that as a result of the play or operation of the game  
26 award credits or free games, and that record the number of free  
27 games or credits so awarded and the cancellation or removal of the

1 free games or credits; and

2 (B) does not include any electronic,  
3 electromechanical, or mechanical contrivance designed, made, and  
4 adapted solely for bona fide amusement purposes if:

5 (i) the contrivance rewards the player  
6 exclusively with noncash merchandise prizes, toys, or novelties, or  
7 a representation of value redeemable for those items, that have a  
8 wholesale value available from a single play of the game or device  
9 of not more than 10 times the amount charged to play the game or  
10 device once or \$5, whichever is less;

11 (ii) any merchandise or a representation of  
12 value received by a player may be exchanged only at the same  
13 business and business location at which the contrivance operated by  
14 the player is located and may not be exchanged for a gift  
15 certificate or similar conveyance that is redeemable at another  
16 business or business location; and

17 (iii) the contrivance or device does not  
18 resemble a slot machine or any other casino game.

19 SECTION 41. Subsection (e), Section 47.06, Penal Code, is  
20 amended to read as follows:

21 (e) An offense under this section is a felony of the third  
22 degree [~~Class A misdemeanor~~].

23 SECTION 42. Section 47.09, Penal Code, is amended by adding  
24 Subsection (c) to read as follows:

25 (c) Subsection (a)(3) applies to a person manufacturing,  
26 distributing, possessing, or operating a gambling device with the  
27 authorization of the Texas Lottery Commission under Subchapter K,

1 Chapter 466, Government Code.

2 SECTION 43. Chapter 47, Penal Code, is amended by adding  
3 Section 47.095 to read as follows:

4 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is  
5 a defense to prosecution under this chapter that a person sells,  
6 leases, transports, possesses, stores, or manufactures a gambling  
7 device with the authorization of the Texas Lottery Commission under  
8 Subchapter K, Chapter 466, Government Code, for transportation in  
9 interstate or foreign commerce.

10 SECTION 44. Article 6, Texas Racing Act (Article 179e,  
11 Vernon's Texas Civil Statutes), is amended by adding Sections 6.20,  
12 6.21, and 6.22 to read as follows:

13 Sec. 6.20. LIVE RACING REQUIREMENT. (a) The commission by  
14 rule shall require a person that holds a horse racetrack license and  
15 operates a video lottery terminal establishment under Subchapter K,  
16 Chapter 466, Government Code, and that conducted live racing in  
17 2002 to conduct at least the same number of live racing days in each  
18 calendar year after 2005 that the racetrack conducted in 2002.

19 (b) The commission by rule shall require a person that holds  
20 a greyhound racetrack license and operates a video lottery terminal  
21 establishment under Subchapter K, Chapter 466, Government Code, and  
22 that conducted live racing in 2004 to conduct not less than 420 live  
23 greyhound racing performances in each calendar year after 2005  
24 unless otherwise agreed to by the official state breed registry.

25 (c) The commission by rule shall require a horse racetrack  
26 in this state that operates a video lottery terminal establishment  
27 under Subchapter K, Chapter 466, Government Code, to conduct at

1 least 50 days of quarter horse racing unless otherwise agreed to by  
2 the state breed registry representing quarter horses in this state.

3 Sec. 6.21. TRANSFER FEE. The commission may not approve the  
4 sale, transfer, assignment, or other conveyance of any interest or  
5 control in a pari-mutuel license or the racetrack owned or managed  
6 by the license holder if the license holder holds a video lottery  
7 retailer license under Subchapter K, Chapter 466, Government Code,  
8 until the transfer fee required by Section 466.521, Government  
9 Code, is fully paid to this state.

10 Sec. 6.22. BREED SPLITS AT VIDEO LOTTERY TERMINAL  
11 ESTABLISHMENTS. The commission shall adopt rules to require a  
12 horse racetrack that holds a video lottery retailer license under  
13 Subchapter K, Chapter 466, Government Code, to allocate from the  
14 amount set aside for purses under Section 466.560(a) or (c),  
15 Government Code, 30 percent to quarter horse purses and 70 percent  
16 to thoroughbred purses.

17 SECTION 45. Subsections (b) and (c), Section 6.14, Texas  
18 Racing Act (Article 179e, Vernon's Texas Civil Statutes), are  
19 repealed.

20 SECTION 46. Notwithstanding Subsections (a) through (e) and  
21 (g), Section 6.02, Texas Racing Act (Article 179e, Vernon's Texas  
22 Civil Statutes), a person described by Subdivisions (1) or (4),  
23 Subsection (a), Section 466.511, Government Code, as added by this  
24 Act, that has not conducted a live race by June 1, 2005, may conduct  
25 live racing according to the type and amount of fee paid under  
26 Subsection (e), Section 6.03, Texas Racing Act (Article 179e,  
27 Vernon's Texas Civil Statutes).

1           SECTION 47. REFERENDUM. At the general election for state  
2 and county officers to be held November 8, 2005, the voters shall be  
3 permitted to vote in a referendum on the question of whether the  
4 state should legalize state controlled video lottery terminals  
5 under the State Lottery Act (Chapter 466, Government Code).

6           SECTION 48. BALLOT PROPOSITION. The ballot shall be  
7 printed to provide for voting for or against the proposition: "The  
8 legalization of state controlled video lottery terminals under the  
9 State Lottery Act."

10          SECTION 49. FORM OF BALLOT. The proposition shall be  
11 printed on the ballot beneath the proposed constitutional  
12 amendments under the heading: "Referendum Proposition."

13          SECTION 50. ELECTION PROCEDURE. (a) Notice of the  
14 election shall be given by inclusion of the proposition in the  
15 proclamation by the governor ordering the election on the proposed  
16 amendments to the state constitution and in the notice of that  
17 election given by each county judge.

18          (b) Returns of the votes cast on the proposition shall be  
19 prepared and canvassed in the same manner as the returns on the  
20 proposed constitutional amendments.

21          (c) Immediately after the results of the election are  
22 certified by the state board of canvassers, the secretary of state  
23 shall transmit a copy of the certification to the lieutenant  
24 governor and the speaker of the house of representatives.

25          SECTION 51. EFFECT OF ELECTION. State controlled video  
26 lottery terminals shall not be conducted under this Act if a  
27 majority of the votes cast in the referendum required by this Act

1 are against the proposition.

2 SECTION 52. CONSTRUCTION OF ACT. (a) The rule of  
3 construction stated in Section 311.032, Code of Construction Act  
4 (Chapter 311, Government Code), applies to the construction of this  
5 Act.

6 (b) It is the legislature's strong intention that, though  
7 the legislature has rarely conducted a referendum on matters of  
8 statewide importance, the will of the people should be honored and  
9 take precedence over any prior constitutional rule of law given the  
10 nature of this particular issue in our state.

11 SECTION 53. This Act takes effect immediately if it  
12 receives a vote of two-thirds of all the members elected to each  
13 house, as provided by Section 39, Article III, Texas Constitution.  
14 If this Act does not receive the vote necessary for immediate  
15 effect, this Act takes effect on the 91st day after the last day of  
16 the legislative session.