

By: Pickett

H.B. No. 162

A BILL TO BE ENTITLED

AN ACT

relating to the operation of video lottery games as part of the state lottery in municipalities or counties in which the voters have approved the operation of the games and by certain Indian tribes on Indian land; providing penalties.

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

SECTION 1. Subtitle E, Title 4, Government Code, is amended by adding Chapter 466A to read as follows:

CHAPTER 466A. VIDEO LOTTERY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 466A.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Lottery Commission.

(2) "Division" means the lottery division established by the commission under Chapter 467.

(3) "Video lottery" means the conduct of video lottery games as part of the state lottery as authorized under this chapter.

(4) "Video lottery game" means any game of chance, including a game of chance in which the outcome may be partially determined by skill or ability, that for consideration may be played by an individual on an electronic machine or video display.

(5) "Video lottery retailer" means a person licensed under this chapter to conduct video lottery.

(6) "Video lottery technology provider" means a person licensed under this chapter to provide video lottery

1 equipment and services.

2 [Sections 466A.002-466A.050 reserved for expansion]

3 SUBCHAPTER B. ADMINISTRATION

4 Sec. 466A.051. POWERS AND DUTIES OF COMMISSION AND
5 EXECUTIVE DIRECTOR. (a) The commission and the executive director
6 of the commission have broad authority and shall exercise strict
7 control and close supervision over video lottery games operated in
8 this state to promote and ensure integrity, security, honesty, and
9 fairness in the conduct and administration of video lottery.

10 (b) The executive director may contract with or employ a
11 person to perform a function, activity, or service in connection
12 with video lottery as prescribed by the executive director.

13 Sec. 466A.052. RULES. The commission shall adopt all rules
14 necessary to conduct or supervise video lottery, administer this
15 chapter, and provide security for video lottery.

16 Sec. 466A.053. ANNUAL REPORT. The commission shall file an
17 annual report with the governor, the comptroller, and the
18 legislature that summarizes video lottery revenues, prize
19 disbursements, and other expenses for the state fiscal year
20 preceding the report. The report must be in the form and reported
21 in the time provided by the General Appropriations Act.

22 Sec. 466A.054. INVESTIGATIONS. In addition to other state
23 or local officials, the attorney general may investigate a
24 violation or alleged violation of:

25 (1) this chapter by any person; or

26 (2) the penal laws of this state in connection with the
27 conduct or administration of video lottery by the commission or its

1 personnel, a video lottery retailer, or a video lottery technology
2 provider.

3 [Sections 466A.055-466A.100 reserved for expansion]

4 SUBCHAPTER C. LICENSE AND CONTRACT REQUIREMENTS

5 Sec. 466A.101. RESTRICTIONS ON VIDEO LOTTERY. (a) A person
6 may not conduct video lottery in this state unless the person:

7 (1) is a video lottery retailer that conducts the
8 video lottery on property owned or leased by the retailer and
9 located in territory in which the operation of video lottery games
10 is authorized under Subchapter E; or

11 (2) is an Indian tribe described by Section 47a,
12 Article III, Texas Constitution, that operates video lottery games
13 on tribal land in accordance with an agreement between the tribe and
14 this state under this chapter.

15 (b) A person may not provide video lottery technology for
16 use in this state unless the person is a video lottery technology
17 provider.

18 (c) A person may not conduct a video lottery game in this
19 state unless:

20 (1) the commission owns a proprietary interest in the
21 game software or other intellectual property component of the game;

22 (2) the type of game is approved for use by the
23 commission; and

24 (3) the machine on which the game is played is actively
25 linked to and controlled by the commission's video lottery central
26 computer system.

27 Sec. 466A.102. VIDEO LOTTERY CENTRAL COMPUTER SYSTEM. The

1 commission shall establish and maintain a video lottery central
2 computer system to link all video lottery machines operated under
3 this chapter to provide the information, control, and security
4 measures required by the commission.

5 Sec. 466A.103. VIDEO LOTTERY RETAILER LICENSE. (a) On
6 application, the commission may issue a video lottery retailer
7 license to a person selected by the commission who is not ineligible
8 to hold the license under another provision of this chapter or
9 commission rule.

10 (b) A person that holds a license issued under this section
11 may operate video lottery games in accordance with this chapter and
12 commission rules at a location approved by the commission that is
13 located in territory in which the operation of video lottery games
14 is authorized under Subchapter E.

15 (c) The commission by rule may establish the minimum
16 qualifications for a person to hold a video lottery retailer
17 license under this section. The commission shall establish those
18 qualifications as the commission determines appropriate to
19 maximize revenues from the lottery to support public education and
20 serve the convenience of persons wishing to play video lottery
21 games consistent with the health and safety of the public.

22 Sec. 466A.104. VIDEO LOTTERY TECHNOLOGY PROVIDER LICENSE.

23 (a) The commission shall issue a video lottery technology provider
24 license to an eligible person with resources and technology the
25 commission determines to be compatible with the video lottery
26 central computer system to provide video lottery equipment and
27 services to video lottery retailers conducting video lottery under

1 this chapter.

2 (b) A person licensed as a video lottery technology provider
3 may not provide video lottery technology or equipment to any person
4 without the consent of the commission.

5 (c) The commission by rule may establish the minimum
6 qualifications for a video lottery technology provider license.
7 The commission shall establish those qualifications as the
8 commission determines appropriate to promote a competitive market
9 for video lottery goods and services and the availability of
10 reliable video lottery equipment and services to the commission and
11 to video lottery retailers conducting video lottery games under
12 this chapter, consistent with the health and safety of the public.

13 Sec. 466A.105. AGREEMENT WITH INDIAN TRIBE. As authorized
14 by Section 47a, Article III, Texas Constitution, the governor may
15 enter into an agreement with an Indian tribe for the operation of
16 video lottery games by the Indian tribe on tribal land.

17 Sec. 466A.106. DISCIPLINARY ACTION. (a) The commission
18 may refuse to issue a license or may revoke, suspend, or refuse to
19 renew a license or may reprimand a license holder for a violation of
20 this chapter, other state law, or a rule of the commission.

21 (b) If the commission proposes to take action under
22 Subsection (a), the person is entitled to notice and a hearing.

23 (c) The commission may place on probation subject to
24 reasonable conditions a person whose license is suspended.

25 (d) The commission may summarily suspend a license issued
26 under this chapter in the manner prescribed by Section 466.160 if
27 the commission determines that the action is necessary to maintain

1 the integrity, security, or fairness of video lottery operations.

2 (e) The commission by rule shall develop a system for
3 monitoring a license holder's compliance with this chapter.

4 (f) The commission shall adopt the rules and procedures
5 necessary to administer this section.

6 [Sections 466A.107-466A.150 reserved for expansion]

7 SUBCHAPTER D. REVENUE

8 Sec. 466A.151. DIVISION OF REVENUE OF VIDEO LOTTERY
9 RETAILER. (a) At the times and in the manner prescribed by
10 commission rule, a video lottery retailer shall pay to the
11 commission ___ percent of the net terminal income derived from
12 video lottery games operated by the retailer.

13 (b) The remainder of the net terminal income shall be
14 retained by the video lottery retailer.

15 Sec. 466A.152. REVENUE FROM INDIAN TRIBE VIDEO LOTTERY. An
16 agreement under Section 466A.105 must provide for the tribe to pay
17 to the commission for deposit in the state video lottery account not
18 less than ___ percent of the net terminal income derived from video
19 lottery games operated under the contract.

20 Sec. 466A.153. STATE VIDEO LOTTERY ACCOUNT. (a) The state
21 video lottery account is a special account in the general revenue
22 fund. The account consists of all revenue received by the
23 commission from video lottery, fees received under this chapter,
24 and all money credited to the account from any other fund or source
25 under law.

26 (b) Money in the state video lottery account may be used
27 only:

1 (1) for the payment of costs incurred in the operation
2 and administration of video lottery;

3 (2) for the payment of prizes for video lottery
4 winners; and

5 (3) for transfer to the general revenue fund.

6 (c) The comptroller shall maintain a reserve in the fund
7 sufficient to pay the amounts necessary or estimated to be
8 necessary for the purposes provided by Subsections (b)(1) and (2).
9 The remaining money in the fund shall be transferred to the general
10 revenue fund at least monthly.

11 [Sections 466A.154-466A.200 reserved for expansion]

12 SUBCHAPTER E. AUTHORIZATION OF VIDEO LOTTERY BY LOCAL OPTION

13 Sec. 466A.201. LOCAL OPTION ELECTION ORDER. On receipt of a
14 petition calling for an election under this subchapter, the
15 commissioners court of a county in which the operation of video
16 lottery games is not currently authorized in all parts of the county
17 or the governing body of a municipality in which the operation of
18 video lottery games is not currently authorized shall order an
19 election on whether to authorize the operation of video lottery
20 games as part of the state lottery in the county or municipality.

21 Sec. 466A.202. PETITION FOR ELECTION. (a) A petition
22 calling for a local option election described by Section 466A.201
23 must contain:

24 (1) a heading that includes the following words:
25 "Petition for a Local Option Election to Authorize the Operation of
26 Video Lottery Games"; and

27 (2) a statement of the issue to be voted on, in the

1 following words: "Authorizing the operation of video lottery games
2 as part of the state lottery in _____ (insert name of county or
3 municipality)."

4 (b) The petition must be signed by a number of registered
5 voters of the county or municipality, as applicable, equal to not
6 less than five percent of the number of votes cast in the county or
7 municipality for all candidates for governor in the most recent
8 gubernatorial general election.

9 (c) Not later than the 40th day after the date the
10 commissioners court or governing body receives the petition, the
11 county or municipal clerk shall determine whether the petition is
12 valid and shall certify that determination to the commissioners
13 court or governing body.

14 Sec. 466A.203. ELECTION; AUTHORIZATION OF VIDEO LOTTERY.

15 (a) If the county or municipal clerk certifies that a petition
16 submitted under Section 466A.202 is valid, the commissioners court
17 or governing body at its next regular session after the
18 certification shall order an election to be held in the county or
19 municipality on the next uniform election date authorized by
20 Section 41.001, Election Code, that occurs at least 65 days after
21 the date of the order and that affords enough time to hold the
22 election in the manner required by law.

23 (b) The ballot shall be printed to permit voting for or
24 against the proposition: "Authorizing the operation of video
25 lottery games as part of the state lottery in _____ (insert name
26 of county or municipality)." If the election is to be held in a
27 county that includes territory of one or more municipalities in

1 which the approval of video lottery games by the voters of the
2 county will not apply as provided by Subsection (d), the
3 proposition shall include the phrase "other than in _____
4 (insert name of municipality or municipalities)."

5 (c) If a majority of the votes cast in the election favor the
6 proposition, the operation of video lottery games is authorized in
7 the county or municipality, other than as provided by Subsection
8 (d), and the commissioners court or governing body shall certify
9 that fact to the secretary of state not later than the 10th day
10 after the date the returns are canvassed. The secretary of state
11 shall promptly notify the commission on receipt of the
12 certification.

13 (d) In a county in which the operation of video lottery
14 games is approved by the voters in an election under this section,
15 the approval does not apply to territory located in a municipality
16 in which:

17 (1) an election was previously held under this
18 section; and

19 (2) a majority of the voters voting in the municipal
20 election did not favor a proposition authorizing the operation of
21 video lottery games.

22 [Sections 466A.204-466A.250 reserved for expansion]

23 SUBCHAPTER F. OFFENSES; PENALTIES

24 Sec. 466A.251. MANIPULATION OR TAMPERING. (a) A person
25 commits an offense if the person intentionally or knowingly
26 manipulates the outcome of a video lottery game, the amount of a
27 video lottery game prize, or the operation of a video lottery

1 machine by physical, electronic, or other means, other than in
2 accordance with commission rules.

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

5 Sec. 466A.252. SALE OF VIDEO LOTTERY GAME TO PERSON YOUNGER
6 THAN 18 YEARS OF AGE. (a) A video lottery retailer or an employee
7 or agent of a video lottery retailer or an employee, agent, or
8 member of an Indian tribe commits an offense if the person
9 intentionally or knowingly:

10 (1) sells or offers to sell a play of a video lottery
11 game to an individual the person knows is younger than 18 years of
12 age or permits the individual to purchase a play of a video lottery
13 game; or

14 (2) pays money or issues a video credit slip or other
15 winnings for a play of a video lottery game to an individual the
16 person knows is younger than 18 years of age.

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

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

20 (2) accepts money, a video credit slip, or other
21 payment of winnings for play of a video lottery game; or

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

26 (c) An offense under Subsection (a) is a Class B
27 misdemeanor.

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

3 Sec. 466A.253. ADMINISTRATIVE PENALTY. The commission may
4 impose an administrative penalty against a person licensed under
5 this chapter who violates this chapter or a rule or order adopted
6 under this chapter.

7 Sec. 466A.254. CIVIL PENALTY. (a) A person who violates
8 this chapter or a rule adopted by the commission under this chapter
9 is liable to the state for a civil penalty not to exceed \$5,000 for
10 each day of violation.

11 (b) At the request of the commission, the attorney general
12 shall bring an action to recover a civil penalty authorized by this
13 section.

14 SECTION 2. Section 466.024(b), Government Code, is amended
15 to read as follows:

16 (b) The commission shall adopt rules prohibiting the
17 operation of any game using a video lottery machine or machine,
18 except in accordance with Chapter 466A.

19 SECTION 3. Section 47.02(c), Penal Code, is amended to read
20 as follows:

21 (c) It is a defense to prosecution under this section that
22 the actor reasonably believed that the conduct:

23 (1) was permitted under Chapter 2001, Occupations
24 Code;

25 (2) was permitted under Chapter 2002, Occupations
26 Code;

27 (3) consisted entirely of participation in:

1 (A) the state lottery authorized by [~~the State~~
2 ~~Lottery Act~~] Chapter 466, Government Code[~~]~~]; or

3 (B) state video lottery authorized by Chapter
4 466A, Government Code;

5 (4) was permitted under the Texas Racing Act (Article
6 179e, Vernon's Texas Civil Statutes); or

7 (5) consisted entirely of participation in a drawing
8 for the opportunity to participate in a hunting, fishing, or other
9 recreational event conducted by the Parks and Wildlife Department.

10 SECTION 4. Section 47.09, Penal Code, is amended by
11 amending Subsection (a) and adding Subsection (c) to read as
12 follows:

13 (a) It is a defense to prosecution under this chapter that
14 the conduct:

15 (1) was authorized under:

16 (A) Chapter 2001, Occupations Code;

17 (B) Chapter 2002, Occupations Code; or

18 (C) the Texas Racing Act (Article 179e, Vernon's
19 Texas Civil Statutes);

20 (2) consisted entirely of participation in the state
21 lottery authorized by Chapter 466, Government Code, or in state
22 video lottery authorized by Chapter 466A, Government Code; or

23 (3) was a necessary incident to the operation of the
24 state lottery or state video lottery and was directly or indirectly
25 authorized by:

26 (A) Chapter 466 or 466A, Government Code;

27 (B) the lottery division of the Texas Lottery

1 Commission;

2 (C) the Texas Lottery Commission; or

3 (D) the director of the lottery division of the
4 Texas Lottery Commission.

5 (c) Subsection (a)(3) applies to a person manufacturing,
6 possessing, or operating a gambling device under a license or other
7 authorization of the Texas Lottery Commission under Chapter 466A,
8 Government Code, or under a contract entered into with the
9 commission under that chapter.

10 SECTION 5. Chapter 47, Penal Code, is amended by adding
11 Section 47.095 to read as follows:

12 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
13 a defense to prosecution under this chapter that a person sells,
14 leases, transports, possesses, stores, or manufactures a gambling
15 device with the authorization of the Texas Lottery Commission under
16 Chapter 466A, Government Code, for transportation in interstate or
17 foreign commerce.

18 SECTION 6. (a) As soon as practicable after the effective
19 date of this Act, the Texas Lottery Commission shall adopt the rules
20 necessary to implement video lottery in accordance with Chapter
21 466A, Government Code, as added by this Act.

22 (b) The commission may adopt initial rules for purposes of
23 implementing video lottery in accordance with Chapter 466A,
24 Government Code, as added by this Act, that expire not later than
25 May 1, 2007. Chapter 2001, Government Code, does not apply to the
26 adoption of those rules. This subsection expires June 1, 2007.

27 SECTION 7. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this Act.
2 An offense committed before the effective date of this Act is
3 covered by the law in effect when the offense was committed, and the
4 former law is continued in effect for that purpose. For purposes of
5 this section, an offense was committed before the effective date of
6 this Act if any element of the offense was committed before that
7 date.

8 SECTION 8. This Act takes effect on the date the
9 constitutional amendment proposed by the 79th Legislature, 3rd
10 Called Session, 2006, authorizing the legislature to legalize the
11 operation of video lottery games as part of the state lottery in
12 counties or municipalities in which the voters have approved the
13 operation of the games and by certain Indian tribes on Indian land
14 takes effect. If that amendment is not approved by the voters, this
15 Act has no effect.