

BILL ANALYSIS

S.B. 442
By: Hinojosa
Civil Practices
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Retailers are licensed by the Texas Lottery Commission (commission) to sell lottery tickets provided and approved by the commission. In order to receive and maintain their license to sell lottery tickets, retailers must comply with administrative rules adopted by the commission governing the sale of tickets. Retailers are responsible for ensuring that tickets are purchased and sold in compliance with these rules.

Although licensed lottery retailers can control most aspects of the purchase and sale of lottery tickets, they are unable to exercise any control over the conduct or management of a lottery game. For example, the number of winners or quantity of prizes are within the exclusive control of the commission and its lottery operators. Retailers are acting as agents of the commission and the State of Texas when making sales of lottery tickets and have no ability to exercise any influence over how a particular game is administered and should not be held responsible for claims related to such issues.

Because retailers have no ability to influence or control any aspects of a lottery game and are simply acting as agents of the commission, they should not be subject to civil suit for claims brought by purchasers of lottery tickets based upon how a lottery game was administered. S.B. 442 establishes a defense for lottery retailers named as defendants in civil lawsuits seeking to recover damages related to the fairness, management, or conduct of a game.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SB 442 amends Subchapter D, Chapter 466, Government Code, by adding Section 466.161, as follows:

Sec. 466.161. IMMUNITY; CIVIL ACTIONS. (a) Provides that a sales agent acting in good faith is immune from civil liability for an act or omission within the course and scope of the agent's license under this chapter.

(b) Provides that this section does not waive any immunity of the Texas Lottery Commission (commission) or this state.

(c) Provides that this section does not create a cause of action against this state, the commission, a commission employee, or a sales agent.

(d) Provides that the immunity provided by Subsection (a) does not apply to a cause of action for personal injury or wrongful death.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.