

By: Flores

H.B. No. 9

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authorizing the operation of video lottery games on
3 behalf of this state; the creation, powers, and duties of the Texas
4 Gaming and Boxing Commission; the powers and duties of the Texas
5 Lottery Commission, the Texas Racing Commission, and the Texas
6 Commission of Licensing and Regulation, and the regulation of
7 gaming in this state; appropriating money; providing penalties.

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

9 ARTICLE 1. AUTHORIZATION OF VIDEO LOTTERY

10 SECTION 1.01. Section 466.002, Government Code, is amended
11 by amending Subdivisions (2)-(10) and adding Subdivisions
12 (11)-(36) to read as follows:

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

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

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

24 (5) "Distribute," with respect to a video lottery

1 terminal, an electronic computer component of a video lottery
2 terminal, the cabinet in which a video lottery terminal is housed,
3 video lottery equipment, or video lottery game software intended
4 for use or play in this state, including on Indian lands in this
5 state, means the sale, lease, marketing, offer, or other
6 disposition of any of those items.

7 (6) [~~(3)~~] "Division" means the lottery division
8 established by the commission under Chapter 467.

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

16 (8) [~~(4)~~] "Executive director" means the executive
17 director of the commission.

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

23 (10) "House-banked game" means a game of chance:

24 (A) in which the house plays as a participant;

25 (B) in which the house competes against all
26 players, collects from all losers, and pays all winners; and

27 (C) that the house has an opportunity to win.

1 (11) "Indian lands" means land over which an Indian
2 tribe exercises governmental power and:

3 (A) that is held in trust by the United States on
4 January 1, 2005, for the benefit of the Indian tribe or an
5 individual member of the Indian tribe pursuant to the Restoration
6 Acts, 25 U.S.C. Section 731 and 18 U.S.C. Section 1166 et seq., and
7 25 U.S.C. Section 2701 et seq.; or

8 (B) on which Class III gaming is permitted under
9 the Indian Gaming Regulatory Act of 1988 (P.L. 100-497, codified at
10 18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section 2701 et seq.).

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
16 Rule 144A, Securities Act of 1933 (15 U.S.C. Sections 77a-77aa),
17 and the rules and regulations adopted under that rule by the United
18 States Securities and Exchange Commission:

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

23 (ii) an insurance company as defined by
24 Section 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section
25 80a-1 et seq.);

26 (iii) an investment company registered
27 under Section 8, Investment Company Act of 1940 (15 U.S.C. Section

1 80a-1 et seq.);

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

7 (v) a group composed entirely of persons
8 specified by this subdivision; or

9 (vi) any other person the commission
10 recognizes as an institutional investor for reasons consistent with
11 the policies expressed in this chapter.

12 (13) [(5)] "Lottery" means the state lottery
13 established and operated in accordance with the Texas Constitution
14 under this chapter and includes the operation of a state-controlled
15 and determined video lottery system [procedures operated by the
16 state under this chapter through which prizes are awarded or
17 distributed by chance among persons who have paid, or
18 unconditionally agreed to pay, for a chance or other opportunity to
19 receive a prize].

20 (14) [(6)] "Lottery game" means an activity conducted
21 lawfully and in accordance with the Texas Constitution and this
22 chapter that is controlled by this state as part of the lottery and
23 through which prizes are awarded or distributed by chance to
24 persons who have paid or unconditionally agreed to pay, or who
25 otherwise participate in a game, for a chance or other opportunity
26 to receive a prize [includes a lottery activity].

27 (15) [(7)] "Lottery operator" means a person selected

1 under Section 466.014(b) to operate a lottery game.

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

9 (17) "Net terminal income" means the total amount of
10 money paid to play video lottery games less the value of all credits
11 redeemed for money, including any progressive prizes, by the
12 players of the video lottery games. The costs associated with
13 progressive prizes may not be deducted from the total amount of
14 money paid to play the video lottery games for purposes of
15 determining net terminal income. Promotional prizes offered by a
16 video lottery retailer or video lottery manager may not be deducted
17 or otherwise considered credits redeemed for money by players for
18 the purpose of 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) [~~18~~] "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), that is:

6 (A) a Class I or Class II horse racetrack that
7 held a pari-mutuel license on June 1, 2005, or for which a person by
8 that date had applied for the pari-mutuel license to conduct horse
9 racing as a Class I or Class II racetrack under which the racetrack
10 operates; or

11 (B) a greyhound racetrack that held a pari-mutuel
12 license on June 1, 2005, or for which a person by that date had
13 applied for the pari-mutuel license to conduct greyhound racing
14 under which the racetrack operates.

15 (22) [~~9~~] "Sales agent" or "sales agency" means a
16 person licensed under this chapter to sell tickets.

17 (23) "Slot machine" means a mechanical, electrical, or
18 other type of device, contrivance, or machine that plays or
19 operates on insertion of a coin, currency, token, or similar object
20 or on payment of any other consideration, and the play or operation
21 of which, through the skill of the operator, by chance, or both, may
22 deliver to the person playing or operating the machine, or entitle
23 the person to receive, cash, premiums, merchandise, tokens, or any
24 other thing of value, whether the payoff is made automatically from
25 the machine or in any other manner. The term does not include any
26 equipment, machine, technological aid, or other device used or
27 authorized in connection with the play of bingo under Chapter 2001,

1 Occupations Code.

2 (24) "Substantial interest holder" means any of the
3 following that is not a bona fide lender, bank, or other authorized
4 or licensed lending institution that holds a mortgage or other lien
5 acquired in the ordinary course of business or a vendor of the
6 applicant or license holder that is not otherwise a substantial
7 business holder:

8 (A) a person who directly, indirectly, or
9 beneficially owns any interest in a privately owned corporation,
10 association, trust, partnership, limited partnership, joint
11 venture, subsidiary, or other entity, regardless of its form,
12 structure, or nature;

13 (B) a person who directly, indirectly, or
14 beneficially owns 10 percent or more of any publicly owned
15 corporation, association, trust, partnership, limited partnership,
16 joint venture, subsidiary, or other entity, regardless of its form,
17 structure, or nature;

18 (C) a person associated with an applicant or
19 license holder who the commission determines has the power or
20 authority to:

21 (i) control the activities of the applicant
22 or license holder; or

23 (ii) elect or select the executive
24 director, the managers, the partners, or a majority of the board of
25 directors of the applicant or license holder; and

26 (D) any key personnel of a video lottery retailer
27 or video lottery manager, including an executive director, officer,

1 director, manager, member, partner, limited partner, executive,
2 employee, or agent, who the commission determines has the power to
3 exercise significant influence over decisions concerning any part
4 of the applicant's or license holder's business operation.

5 (25) [~~10~~] "Ticket" means any tangible evidence
6 issued to provide participation in a lottery game authorized by
7 this chapter other than a video lottery game.

8 (26) "Video lottery central system" means the system
9 of procedures and facilities operated and controlled by the
10 commission that is designed to link together all video lottery
11 terminals operated in this state, determines the outcome of all
12 video lottery games, and allows the commission to continuously
13 monitor the activity of each video lottery terminal and to disable
14 any video lottery terminal in this state.

15 (27) "Video lottery central system provider" means a
16 person that, under a contract with the commission, provides the
17 video lottery central system.

18 (28) "Video lottery equipment" means:

19 (A) a video lottery terminal;

20 (B) equipment, a component, or a contrivance used
21 remotely or directly in connection with a video lottery terminal
22 to:

23 (i) affect the reporting of gross revenue
24 and other accounting information, including a device for weighing
25 and counting money;

26 (ii) connect video lottery terminals
27 together for accounting or wide-area prize or promotional purposes;

1 (iii) monitor video lottery terminal
2 operations; and

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

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

7 (29) "Video lottery game" means an electronically
8 simulated game displayed on a video lottery terminal the outcome of
9 which is determined solely by chance based on a computer-generated
10 random selection of winning combinations of symbols or numbers
11 other than roulette, dice, or baccarat game themes associated with
12 casino gambling, except that game themes displaying symbols that
13 appear to roll on drums to simulate a classic casino slot machine or
14 themes of other card games and keno may be used.

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

16 (A) is licensed by the commission under this
17 chapter to manage a video lottery terminal establishment; or

18 (B) provides management services for a video
19 lottery terminal establishment on Indian lands for an Indian tribe
20 that has entered into an agreement with the governor for the
21 operation of video lottery games.

22 (31) "Video lottery retailer" means a person licensed
23 to operate a video lottery terminal establishment at which video
24 lottery games are conducted under Subchapter K.

25 (32) "Video lottery system" means the system
26 authorized under Subchapter K and controlled and operated by the
27 commission under which individuals play lottery games on video

1 lottery terminals as authorized under that subchapter.

2 (33) "Video lottery terminal" means an interactive
3 electronic device that is capable of displaying video lottery
4 games.

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

9 (35) "Video lottery terminal provider" means a person
10 in the business of manufacturing or distributing video lottery
11 terminals in this state.

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

15 SECTION 1.02. Section 466.003, Government Code, is amended
16 by amending Subsection (b) and adding Subsection (c) to read as
17 follows:

18 (b) Any [A] contract or authorized agreement between the
19 division and a lottery operator, the video lottery central system
20 provider, a video lottery terminal provider, or a manufacturer or
21 distributor of video lottery games under Section 466.014(b) must
22 contain a provision allowing the contract or authorized agreement
23 to be terminated without penalty should the division be abolished
24 unless another state agency is assigned to control and supervise
25 all video lottery game activity as required by this chapter.

26 (c) Notwithstanding Subsection (a), if any gaming agreement
27 that allows video lottery is in effect, the commission or another

1 state agency designated by the legislature must operate, control,
2 and supervise video lottery games as necessary to comply with a
3 gaming agreement under this chapter.

4 SECTION 1.03. Section 466.004(a), Government Code, is
5 amended to read as follows:

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

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

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

9 [~~or~~]

10 (3) an ad valorem tax on tickets; or

11 (4) a tax, fee, or other assessment on consideration
12 paid to play a video lottery game.

13 SECTION 1.04. Section 466.014, Government Code, is amended
14 to read as follows:

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

21 (b) The executive director may contract with or employ a
22 person to perform a function, activity, or service in connection
23 with the operation of the lottery as prescribed by the executive
24 director. A contract relating to the operation of video lottery
25 must be consistent with Subchapter K. Except as provided by this
26 subsection, a [A] person with whom the executive director contracts
27 to operate a lottery game must be eligible for a sales agent license

1 under Section 466.155. A person with whom the executive director
2 contracts to provide the video lottery central system must be
3 eligible under the same standards as those applicable to the
4 registration or approval by the commission of a video lottery
5 terminal provider in accordance with Subchapter K.

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

17 (d) In the acquisition or provision of facilities,
18 supplies, equipment, materials, or services related to the
19 implementation of video lottery, the commission must comply with
20 procurement procedures prescribed under:

21 (1) Subtitle D, Title 10; and

22 (2) Section 466.101.

23 SECTION 1.05. Section 466.015(b), Government Code, is
24 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; ~~and~~

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

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

11 SECTION 1.06. Section 466.017, Government Code, is amended
12 to read as follows:

13 Sec. 466.017. AUDITS. (a) The commission ~~[executive~~
14 ~~director]~~ shall provide for a certified public accountant to
15 conduct an independent audit of the commission's annual financial
16 statements in accordance with generally accepted auditing
17 standards that requires the accountant to express an opinion on the
18 conformity of the financial statements with generally accepted
19 accounting principles ~~[for each fiscal year of all accounts and~~
20 ~~transactions of the lottery]~~. The certified public accountant may
21 not have ~~[, as determined by the executive director,]~~ a significant
22 financial interest in a sales agent, lottery vendor, ~~[or]~~ lottery
23 operator, video lottery manager, video lottery retailer, video
24 lottery terminal provider, or video lottery central system
25 provider. The certified public accountant shall present an audit
26 report to the executive director, the commission, the governor, the
27 comptroller, and the legislature not later than the 30th day after

1 the submission date for the annual financial report required by the
2 General Appropriations Act. ~~[The report must contain~~
3 ~~recommendations to enhance the earnings capability of the lottery~~
4 ~~and improve the efficiency of lottery operations.]~~ The state
5 auditor may review the results of and working papers related to the
6 audit.

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

1 suspend the license or registration of the sales agent, video
2 lottery manager, video lottery retailer, or video lottery terminal
3 provider under Section 466.160 or Subchapter K until the
4 examination is completed as required. Section 321.013(h) does not
5 apply to an audit of a lottery operator, [~~or~~] sales agent, video
6 lottery manager, video lottery retailer, video lottery terminal
7 provider, or video lottery central system provider.

8 SECTION 1.07. Section 466.018, Government Code, is amended
9 to read as follows:

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

20 SECTION 1.08. Sections 466.020(c), (d), and (e), Government
21 Code, are amended to read as follows:

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

26 (1) [~~7~~] without a search warrant, [~~may~~] search and
27 seize a lottery vending machine, lottery computer terminal, video

1 lottery terminal, or other lottery or gaming equipment that is
2 located on premises for which a person holds a sales agent, video
3 lottery retailer, or video lottery manager license issued under
4 this chapter; or

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

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

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

- 20 (1) lottery personnel security;
- 21 (2) sales agent security;
- 22 (3) lottery operator and vendor security;
- 23 (4) security against ticket counterfeiting and
24 alteration and other means of fraudulent winning;
- 25 (5) security of lottery drawings;
- 26 (6) lottery computer, data communications, database,
27 and systems security;

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

15 SECTION 1.09. Section 466.021(a), Government Code, is

16 amended to read as follows:

17 (a) The executive director shall, every two years, employ an

18 independent firm experienced in demographic analysis to conduct a

19 demographic study of lottery players. The study must examine

20 ~~include~~ the income, age, sex, race, education, and frequency of

21 participation of players. The study must distinguish between

22 players of traditional lottery games and video lottery games.

23 SECTION 1.10. Section 466.022, Government Code, is amended

24 by amending Subsection (b) and adding Subsections (c), (d), (e),

25 and (f) to read as follows:

26 (b) In addition to commission records excepted from

27 disclosure under Chapter 552, the following information is

1 confidential and is exempt from disclosure:

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

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

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

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

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

19 (1) is furnished to the commission under Subchapter K
20 or that may be otherwise obtained by the commission from any source;

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

25 (3) is provided to the commission, a commission
26 employee, or an investigator acting on behalf of the commission by a
27 governmental agency or an informer or on the assurance that the

1 information will be held in confidence and treated as confidential;

2 (4) is obtained by the commission from a video lottery
3 manager, video lottery retailer, video lottery terminal provider,
4 or video lottery central system provider; or

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

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

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

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

25 SECTION 1.11. Section 466.024, Government Code, is amended
26 to read as follows:

27 Sec. 466.024. PROHIBITED GAMES. (a) Except as provided by

1 Chapter 2004, Occupations Code, the [~~The~~] executive director, [~~or~~]
2 a lottery operator, a video lottery manager, a video lottery
3 retailer, a video lottery terminal provider, or a video lottery
4 central system provider may not establish or operate a lottery game
5 in which the winner is chosen on the basis of the outcome of a sports
6 event.

7 (b) Except as provided by Chapter 2004, Occupations Code,
8 the [~~The commission shall adopt rules prohibiting the~~] operation of
9 any game using a video lottery machine, slot [~~or~~] machine, or other
10 gambling device that is not connected to the video lottery central
11 system and controlled and supervised by the commission is
12 prohibited.

13 (c) In this section, "sports[+]

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

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

24 SECTION 1.12. Section 466.025, Government Code, is amended
25 to read as follows:

26 Sec. 466.025. REPORTS OF TICKETS SOLD, NET TERMINAL INCOME,
27 AND PRIZES AWARDED. For each lottery game, other than a video

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

8 SECTION 1.13. Section 466.103(a), Government Code, is
9 amended to read as follows:

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

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

16 (2) with regard to video lottery equipment:

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

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

21 SECTION 1.14. Section 466.110, Government Code, is amended
22 to read as follows:

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

1 SECTION 1.15. Section 466.151(b), Government Code, is
2 amended to read as follows:

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

7 SECTION 1.16. Section 466.158(a), Government Code, is
8 amended to read as follows:

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

12 SECTION 1.17. Section 466.201(a), Government Code, is
13 amended to read as follows:

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

19 (1) a sales agent or an applicant for a sales agent
20 license;

21 (2) a person required to be named in a license
22 application;

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

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

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

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

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

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

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

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

24 (B) holds more than 10 percent of the stock in the
25 person;

26 (C) holds an equitable interest greater than 10
27 percent in the person;

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

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

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

8 (G) participates in managing the affairs of the
9 person; or

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

12 (i) selling tickets; or

13 (ii) handling money from the sale of
14 tickets.

15 SECTION 1.18. Subchapter E, Chapter 466, Government Code,
16 is amended by adding Section 466.206 to read as follows:

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

26 (b) The Department of Public Safety or a state or local law
27 enforcement agency in this state, in accordance with an interagency

1 agreement with the commission, shall provide any assistance
2 requested by the commission in the administration and enforcement
3 of this chapter, including conducting background investigations of
4 a person seeking a license, registration, or other commission
5 authorization required under Subchapter K or of any person required
6 to be named in an application for a license, registration, or other
7 commission authorization under that subchapter.

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

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

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

19 (2) under a court order.

20 SECTION 1.19. Section 466.252, Government Code, is amended
21 to read as follows:

22 Sec. 466.252. PLAYER [~~PURCHASE OF TICKET~~] AGREEMENT TO
23 ABIDE BY RULES AND INSTRUCTIONS. (a) By purchasing a ticket in a
24 particular lottery game or participating as a player in a lottery
25 game, a player agrees to abide by and be bound by the commission's
26 rules and instructions, including the rules or instructions
27 applicable to the particular lottery game involved. The player

1 also acknowledges that the determination of whether the player is a
2 valid winner is subject to:

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

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

8 (3) the limitations and other provisions prescribed by
9 this chapter.

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

12 SECTION 1.20. Section 466.3011, Government Code, is amended
13 to read as follows:

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

17 (1) an offense under this chapter;

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

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

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

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

1 SECTION 1.21. Subchapter G, Chapter 466, Government Code,
2 is amended by adding Section 466.3031 to read as follows:

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

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

15 (c) Notwithstanding Subsection (b), a video lottery
16 retailer, video lottery manager, or registered or approved video
17 lottery terminal provider may store a video lottery terminal as
18 authorized by the commission for a period not to exceed 120
19 consecutive days, and the commission may possess video lottery
20 terminals for study and evaluation.

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

25 SECTION 1.22. Section 466.305(a), Government Code, is
26 amended to read as follows:

27 (a) A sales agent, video lottery manager, or video lottery

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

7 SECTION 1.23. The heading to Section 466.3051, Government
8 Code, is amended to read as follows:

9 Sec. 466.3051. SALE OF TICKET OR LOTTERY GAME TO OR PURCHASE
10 OF TICKET OR LOTTERY GAME BY PERSON YOUNGER THAN 18 YEARS OF AGE.

11 SECTION 1.24. Section 466.3051, Government Code, is amended
12 by adding Subsection (a-1) and amending Subsections (b) and (e) to
13 read as follows:

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

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

20 (1) purchases a ticket;

21 (2) plays a video lottery game; or

22 (3) [~~2~~] falsely represents the individual to be 18
23 years 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 ticket or play a video lottery game.

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

1 SECTION 1.25. Section 466.3053, Government Code, is amended
2 to read as follows:

3 Sec. 466.3053. PURCHASE OF TICKET OR VIDEO LOTTERY GAME
4 WITH PROCEEDS OF AFDC CHECK OR FOOD STAMPS. (a) A person commits an
5 offense if the person intentionally or knowingly purchases a ticket
6 or plays a video lottery game with:

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

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

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

13 SECTION 1.26. Section 466.306, Government Code, is amended
14 to read as follows:

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

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

23 SECTION 1.27. Section 466.309(a), Government Code, is
24 amended to read as follows:

25 (a) A person commits an offense if the person intentionally
26 or knowingly tampers with, damages, defaces, or renders inoperable
27 any vending machine, electronic computer terminal, video lottery

1 terminal or other video lottery equipment, or other mechanical
2 device used in a lottery game.

3 SECTION 1.28. The heading to Section 466.317, Government
4 Code, is amended to read as follows:

5 Sec. 466.317. PROHIBITION AGAINST SALE OF CERTAIN LOTTERY
6 TICKETS OR OPERATION OF CERTAIN VIDEO LOTTERY SYSTEMS.

7 SECTION 1.29. Section 466.317, Government Code, is amended
8 by adding Subsection (a-1) and amending Subsections (b) and (c) to
9 read as follows:

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

12 (b) The state may enter into a compact with another state or
13 state government [~~or an Indian tribe or tribal government~~] to
14 permit the sale of lottery tickets of this state in the state's[~~r~~
15 ~~tribe's,~~] or government's jurisdiction and to allow the sale of the
16 state's[~~r, tribe's,~~] or government's lottery tickets in this state.

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

20 SECTION 1.30. Section 466.355(a), Government Code, is
21 amended to read as follows:

22 (a) The state lottery account is a special account in the
23 general revenue fund. The account consists of all revenue received
24 from the sale of tickets, license and application fees under this
25 chapter, other than Subchapter K [~~chapter~~], and all money credited
26 to the account from any other fund or source under law. Interest
27 earned by the state lottery account shall be deposited in the

1 unobligated portion of the general revenue fund.

2 SECTION 1.31. Subchapter H, Chapter 466, Government Code,
3 is amended by adding Section 466.360 to read as follows:

4 Sec. 466.360. VIDEO LOTTERY TERMINAL REVENUE. Revenue
5 generated from the operation of video lottery terminals is governed
6 by Subchapter K and commission rules.

7 SECTION 1.32. Section 466.402, Government Code, is amended
8 by adding Subsection (e) to read as follows:

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

11 SECTION 1.33. Chapter 466, Government Code, is amended by
12 adding Subchapter K to read as follows:

13 SUBCHAPTER K. VIDEO LOTTERY

14 Sec. 466.501. LEGISLATIVE FINDINGS AND DECLARATIONS. The
15 legislature finds and declares the following:

16 (1) This state's public policy prohibiting gambling is
17 subject only to limited exceptions provided by the Texas Racing Act
18 (Article 179e, Vernon's Texas Civil Statutes) or enumerated in the
19 Texas Constitution and approved by the voters.

20 (2) Any game that is a lottery cannot lawfully be
21 operated in this state unless the game is excepted from the
22 constitutional prohibition against lotteries. In 1991, the
23 electorate approved a constitutional amendment authorizing the
24 state to operate lotteries. In 2005, the electorate approved a
25 constitutional amendment allowing expansion of the existing state
26 lottery through a state-controlled video lottery system allowing
27 video lottery terminals connected to a state-controlled and

1 determined video lottery central system to be placed at locations
2 determined in accordance with law enacted by the legislature.

3 (3) The purpose and intent of this chapter is to carry
4 out the intent of the voters as established by the approval of
5 Section 47(f), Article III, Texas Constitution.

6 (4) The people of this state intend to allow only
7 state-controlled video lottery games to be conducted in this state
8 and only in locations licensed as video lottery terminal
9 establishments or at locations on Indian lands under an agreement
10 between this state and the appropriate Indian tribe.

11 (5) This state has the authority and responsibility to
12 control the proliferation of gambling by:

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

15 (B) limiting video lottery to licensed video
16 lottery terminal establishments;

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

20 (D) providing comprehensive law enforcement
21 supervision of video lottery game activities.

22 (6) This state's ability to monitor and control the
23 operation of all video lottery terminals ensures the integrity of
24 the system and provides for the most efficient oversight and
25 supervision. Costs incurred for oversight and supervision of
26 gambling will be significantly less than if video lottery terminals
27 were not operated as part of the video lottery system. In addition,

1 providing for the state-controlled and determined system will
2 defend against criminal infiltration of gambling operations.

3 (7) The video lottery games operated at video lottery
4 terminal establishments under this chapter are controlled and
5 determined by this state in a manner that allows this state to
6 continuously monitor all video lottery terminals and to disable any
7 video lottery terminal for the protection of the public and this
8 state.

9 (8) Through the video lottery system this state will
10 monitor the network of video lottery terminals to ensure maximum
11 security unique to state-operated gambling. Except as may
12 otherwise be required by federal law governing Indian lands, each
13 operating video lottery terminal in this state will be connected to
14 a video lottery central system.

15 (9) By limiting the operation of video lottery
16 terminals to those connected to the state-controlled and determined
17 video lottery system and to certain lands and certain types of
18 games, the legislature seeks to foster this state's legitimate
19 sovereign interest in regulating the growth of gambling activities
20 in this state. Limiting video lottery terminals to those
21 controlled by this state and located at video lottery terminal
22 establishments is reasonably designed to defend against the
23 criminal infiltration of gambling operations and adverse impacts on
24 communities statewide. By restricting video lottery terminals to
25 limited locations and video lottery terminals controlled by this
26 state that may be disabled by this state if necessary to protect the
27 public, this state furthers the state's purpose of ensuring that

1 such gambling activities are free from criminal and undesirable
2 elements.

3 (10) This chapter is game-specific and may not be
4 construed to allow the operation of any other form of gambling
5 unless specifically allowed by this chapter. This chapter does not
6 allow the operation of slot machines, dice games, roulette wheels,
7 house-banked games, including house-banked card games, or games in
8 which winners are determined by the outcome of a sports contest that
9 are prohibited under other state law.

10 (11) To effectuate the will of the voters, any video
11 lottery games on lands of Indian tribes must be in strict compliance
12 with state law, unless otherwise required by federal law, or in
13 accordance with a gaming agreement negotiated with the governor and
14 ratified by the legislature.

15 (12) This state has conferred a substantial economic
16 benefit on federally recognized Indian tribes by allowing operation
17 of video lottery terminals on lands held in trust by the Indian
18 tribes and on Indian lands on which gaming is allowed under
19 applicable federal law. Federally recognized Indian tribes have
20 the exclusive right to operate video lottery terminals at locations
21 on the Indian lands in this state without incurring the investment
22 necessary to construct, maintain, and operate racetracks for live
23 racing, and through revenue-sharing both the policy of
24 self-governance for the tribes and this state's interests in
25 generating additional revenue to fund governmental programs can be
26 promoted.

27 (13) The public has an interest in video lottery game

1 operations, and other gaming operations conducted under Section
2 47(f), Article III, Texas Constitution, and this chapter represent
3 an exception to the general policy of this state prohibiting
4 wagering for private gain. Therefore, participation in a video
5 lottery game by a holder of a license, registration, or approval
6 under this chapter is considered a privilege conditioned on the
7 proper and continued qualification of the holder and on the
8 discharge of the affirmative responsibility of each holder to
9 provide to the commission or other regulatory and investigatory
10 authorities established by this chapter any assistance and
11 information necessary to assure that the policies declared by this
12 chapter are achieved. Consistent with this policy, the legislature
13 intends this chapter to:

14 (A) preclude the creation of any property right
15 in any license, registration, or approval issued or granted by this
16 state under this chapter, the accrual of any value to the privilege
17 of participation in any video lottery game operation, or the
18 transfer of a license or permit; and

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

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

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

27 (a) This subchapter applies uniformly throughout this state and

1 all political subdivisions of this state.

2 (b) Nothing contained in this chapter may be construed to
3 implicitly repeal or modify existing state laws with respect to
4 gambling, except that the state lottery and video lottery terminals
5 are not prohibited by another law if conducted as authorized under
6 this subchapter.

7 (c) To the extent of any inconsistency between Chapter 2003
8 and this subchapter or a commission rule governing video lottery
9 terminals, this subchapter or the commission rule controls in all
10 matters related to video lottery terminals, including hearings
11 before the State Office of Administrative Hearings.

12 (d) Video lottery equipment operated under commission
13 authority and this chapter is exempt from 15 U.S.C. Section 1172.

14 Sec. 466.505. AUTHORITY TO OPERATE VIDEO LOTTERY SYSTEM.

15 (a) The commission may implement and operate a video lottery system
16 and control the operation of video lottery terminals at video
17 lottery terminal establishments in accordance with this chapter
18 and, for a video lottery terminal establishment at a racetrack, the
19 Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).
20 This chapter supersedes any conflicting or inconsistent provision
21 of the Texas Racing Act or other state law.

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

26 Sec. 466.506. VIDEO LOTTERY GAMES; STATE OWNERSHIP AND
27 PROPRIETARY INTEREST. (a) This state must own all video lottery

1 games conducted through the video lottery system, regardless of
2 ownership of the video lottery terminal on which the game is played.

3 This state must possess a proprietary interest in:

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

6 (2) software consisting of computer programs,
7 documentation, and other related materials necessary for the
8 operation of the video lottery system.

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

11 (1) ownership of the software; or

12 (2) an exclusive product license agreement with a
13 provider in which the provider retains copyrighted ownership of the
14 software but the license granted to this state is nontransferable
15 and authorizes this state to operate the software program, solely
16 for the state's own use, on the video lottery central system and
17 video lottery terminals connected to the video lottery central
18 system.

19 Sec. 466.507. STATE CONTROL OF VIDEO LOTTERY SYSTEM. (a)
20 The commission shall control and operate the video lottery system
21 and the video lottery central system.

22 (b) The commission may disable a video lottery terminal if a
23 video lottery retailer's or video lottery manager's license is
24 revoked, surrendered, or summarily suspended under this
25 subchapter.

26 Sec. 466.510. VIDEO LOTTERY CENTRAL SYSTEM. (a) The
27 commission shall establish or cause to be established a video

1 lottery central system to link all video lottery terminals in the
2 video lottery system through which the commission has the exclusive
3 and unilateral ability to:

4 (1) control and determine the outcome of all video
5 lottery games;

6 (2) monitor activity of video lottery terminals and
7 remotely disable video lottery terminals for the public safety,
8 health, and welfare or the preservation of the integrity of the
9 lottery; and

10 (3) provide the auditing and other information
11 required by the commission.

12 (b) The commission shall provide to a registered video
13 lottery terminal provider or an applicant applying for registration
14 as a video lottery terminal provider the protocol documentation
15 data necessary to enable the provider's or applicant's video
16 lottery terminals to communicate with the commission's video
17 lottery central system for the purposes described by Subsection
18 (a).

19 (c) The video lottery central system may not limit or
20 preclude potential providers from providing the video lottery
21 terminals based on:

22 (1) prohibitive costs to implement program
23 modifications necessary to communicate or link with the system; or

24 (2) the inability of video lottery terminals of more
25 than one provider to communicate or link with the system.

26 (d) The video lottery central system provider may not sell
27 or distribute video lottery terminals in this state.

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

3 Sec. 466.511. VIDEO LOTTERY TERMINAL PROVIDER:
4 REGISTRATION OR APPROVAL REQUIRED. (a) A person may not
5 manufacture or distribute video lottery equipment for use or play
6 in this state unless the person is registered as a video lottery
7 terminal provider or is otherwise approved by the commission to
8 manufacture or distribute video lottery equipment in this state.

9 (b) Unless suspended or revoked, the registration or
10 approval expires on the date specified by the commission, which may
11 not be later than the third anniversary of the date of the
12 registration or approval. A person may renew an unexpired
13 registration or approval by paying the required renewal fee and
14 complying with the requirements of this subchapter and commission
15 rule.

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

19 Sec. 466.512. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION;
20 CHANGE IN INFORMATION. (a) The commission shall adopt rules
21 governing the registration or approval of video lottery terminal
22 providers. The rules must require the application and any other
23 form or document submitted to the commission by or on behalf of the
24 applicant to determine the applicant's qualification under this
25 section to be sworn to or affirmed before an officer qualified to
26 administer oaths.

27 (b) An applicant for a video lottery terminal provider

1 registration or approval must provide the following information:

2 (1) the full name and address of the applicant;

3 (2) the full name and address of each location at which
4 video lottery equipment is or will be manufactured or stored in this
5 state;

6 (3) the name, home address, and share of ownership of
7 the applicant's substantial interest holders;

8 (4) a full description of each separate type of video
9 lottery equipment that the applicant seeks to manufacture or
10 distribute in this state;

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

13 (6) if the applicant is incorporated under law other
14 than the laws of this state, the applicant's irrevocable
15 designation of the secretary of state as the applicant's resident
16 agent for service of process and notice in accordance with the law
17 of this state;

18 (7) a list of all businesses or organizations in this
19 state in which the applicant has any financial interest and the
20 details of that financial interest, including all arrangements
21 through which a person directly or indirectly receives any portion
22 of the profits of the video lottery terminal provider and
23 indebtedness between the license holder and any other person, other
24 than a regulated financial institution, in excess of \$5,000;

25 (8) a list of all affiliated businesses or
26 corporations in which the applicant or an officer, director, or
27 substantial interest-holder of the applicant, either directly or

1 indirectly, owns or controls as a sole proprietor or partner more
2 than 10 percent of the voting stock of a publicly traded
3 corporation;

4 (9) a list of all businesses or corporations licensed
5 to conduct gambling activities or to supply gambling-related
6 equipment, supplies, or services in which the applicant or an
7 officer, director, or substantial interest-holder of the applicant
8 has any interest;

9 (10) a list of all jurisdictions in which the
10 applicant or an officer, director, or substantial interest-holder
11 of the applicant has been licensed, registered, qualified, or
12 otherwise approved to conduct gambling-related activities during
13 the 10 years preceding the date of the filing of the application;

14 (11) a statement, including all related details,
15 indicating whether the applicant or an officer, director, or
16 substantial interest-holder of the applicant has ever had a
17 license, registration, qualification, or other approval for
18 gambling-related activities denied, revoked, or suspended by any
19 jurisdiction or has been fined or otherwise required to pay
20 penalties or monetary forfeitures for gambling-related activities
21 in any jurisdiction; and

22 (12) a statement acknowledging that the applicant will
23 make available for review at the time and place requested by the
24 commission all records related to the ownership or operation of the
25 business.

26 (c) The commission may require the following information
27 from an applicant:

1 (1) personal financial and personal history records of
2 all substantial interest-holders;

3 (2) all records related to the scope of activity,
4 including sales of product, purchases of raw materials and parts,
5 and any contracts, franchises, patent agreements, or similar
6 contracts or arrangements related to manufacturing or distributing
7 video lottery terminals; and

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

10 (d) The applicant must demonstrate the ability to comply
11 with all manufacturing, quality control, and operational
12 restrictions imposed on authorized video lottery equipment,
13 patented or otherwise restricted video lottery games, or other
14 video lottery equipment that the applicant seeks to manufacture or
15 distribute for use in this state. The registration or approval
16 process must include an on-site review of the applicant's
17 manufacturing equipment and process for each separate type of
18 authorized video lottery equipment to ensure compliance with the
19 requirements of this chapter and commission rules.

20 (e) Not later than the 10th day after the date of any change
21 in the information submitted on or with the application form, the
22 applicant shall notify the commission of the change, including a
23 change that occurs after the registration or other commission
24 approval has been granted.

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

27 Sec. 466.513. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION

1 FEE. (a) An applicant seeking registration or approval or renewal
2 of registration or approval as a video lottery terminal provider
3 must pay a nonrefundable application fee in the amount of \$_____.

4 (b) Application fees paid under this section shall be
5 retained by the commission to defray costs incurred in the
6 administration and enforcement of this chapter relating to the
7 operation of video lottery terminals.

8 Sec. 466.520. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
9 MANAGER LICENSE REQUIRED. (a) Except as provided by a gaming
10 agreement, a person may not own or operate a video lottery terminal
11 if the person does not satisfy the requirements of this subchapter
12 and is not licensed by the commission to act as a video lottery
13 retailer or video lottery manager.

14 (b) A federally recognized Indian tribe may obtain a license
15 as a video lottery retailer to conduct video lottery games on Indian
16 lands as an alternative to operating those games under a gaming
17 agreement under this subchapter. A retailer license issued by the
18 commission to the tribe constitutes an agreement between the tribe
19 and this state for purposes of the Indian Gaming Regulatory Act of
20 1988 (25 U.S.C. Sec. 2701 et seq.).

21 Sec. 466.521. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
22 MANAGER: APPLICATION AND QUALIFICATION. (a) An applicant for a
23 video lottery retailer or video lottery manager license must apply
24 to the commission under rules adopted by the commission, provide
25 the information necessary to determine the applicant's eligibility
26 for a license, and provide other information considered necessary
27 by the commission.

1 (b) Except as provided by Section 466.520(b), an applicant
2 for a video lottery retailer license must hold a valid racing
3 license granted under the Texas Racing Act (Article 179e, Vernon's
4 Texas Civil Statutes) and be a racetrack as defined by Section
5 466.002.

6 (c) An applicant for a video lottery manager license must:

7 (1) have a valid and executed contract with a
8 racetrack that satisfies the requirements of Subsection (b) to act
9 as a video lottery manager for the racetrack subject to licensing
10 under this chapter; or

11 (2) demonstrate to the commission's satisfaction that
12 the applicant seeks to act as a video lottery manager for a
13 federally recognized Indian tribe that:

14 (A) has entered into a gaming agreement with this
15 state that is in effect and governs the regulation of video lottery
16 terminals on Indian lands in this state; or

17 (B) has obtained a license as a video lottery
18 retailer in accordance with this subchapter.

19 (d) Each officer, partner, director, key employee,
20 substantial interest-holder, video lottery game operation
21 employee, and owner of video lottery game operations must be
22 eligible and maintain eligibility in accordance with this
23 subchapter to be involved in video lottery games in this state.

24 (e) An applicant for a video lottery retailer or video
25 lottery manager license has the burden of proving qualification for
26 a license by clear and convincing evidence. In addition to
27 satisfying minimum requirements established by commission rules,

1 an applicant for a video lottery retailer or video lottery manager
2 license must:

3 (1) be a person of good character, honesty, and
4 integrity;

5 (2) be a person whose background and prior activities,
6 including criminal record, reputation, habits, and associations,
7 do not pose a threat to the security and integrity of video lottery
8 or to the public interest of this state or to the effective
9 operation and control of video lottery, or do not create or enhance
10 the dangers of unsuitable, unfair, or illegal practices, methods,
11 and activities in the conduct of video lottery or in the carrying on
12 of the business and financial arrangements incidental to video
13 lottery;

14 (3) if applying for a new license, provide
15 fingerprints for a criminal records evaluation by the Texas
16 Department of Public Safety or other law enforcement agency,
17 including fingerprints for each person required to be named in an
18 application, accompanied by a signed authorization for the release
19 of information to the commission by the department of public safety
20 and the Federal Bureau of Investigation;

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

24 (5) demonstrate adequate business probity,
25 competence, experience, and financial stability as defined by the
26 commission;

27 (6) demonstrate adequate financing for the operation

1 of the facility at which the video lottery terminals will be
2 operated from a source that meets the requirements of this
3 subchapter and is adequate to support the successful performance of
4 the duties and responsibilities of the license holder and disclose
5 all financing or refinancing arrangements for the purchase, lease,
6 or other acquisition of video lottery equipment in the degree of
7 detail requested by the commission;

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

12 (8) demonstrate that each substantial interest-holder
13 in the applicant meets all applicable qualifications under this
14 subchapter;

15 (9) provide all information, including financial data
16 and documents, consents, waivers, and any other materials,
17 requested by the commission for purposes of determining
18 qualifications for a license; and

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

25 (f) An application or disclosure form and any other document
26 submitted to the commission by or on behalf of the applicant for
27 purposes of determining qualification for a video lottery retailer

1 or video lottery manager license must be sworn to or affirmed before
2 an officer qualified to administer oaths.

3 (g) An applicant who knowingly fails to reveal any fact
4 material to qualification for a license, finding of suitability, or
5 other approval or who knowingly submits false or misleading
6 material information is ineligible for a video lottery retailer or
7 video lottery manager license.

8 (h) An applicant for a license or renewal of a license as a
9 video lottery retailer or video lottery manager shall notify the
10 commission of any change in the application information for a
11 license or renewal of a license not later than the 10th day after
12 the date of the change, except that a publicly traded corporation or
13 other business association or entity applicant is not required to
14 notify the commission of a transfer by which any person directly or
15 indirectly becomes the beneficial owner of less than 10 percent of
16 the stock of the corporation or association.

17 (i) Except as provided by Section 466.525(c), the
18 commission shall deny an application for a license or shall suspend
19 or revoke a license if the commission finds that the applicant would
20 be subject to denial or revocation of a sales agent license under
21 Section 466.155.

22 Sec. 466.522. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
23 MANAGER: APPLICATION FEE. (a) An applicant for a video lottery
24 retailer or video lottery manager license shall submit a
25 nonrefundable application processing fee in the amount of \$_____.

26 (b) An application may not be processed until the applicant
27 pays the application fee. If the application fee is not received by

1 the 30th day after the date the commission notifies the applicant of
2 the amount of the fee, the application is considered withdrawn and
3 may not be considered by the commission.

4 (c) The commission shall set any additional application fee
5 necessary to pay the costs of determining the applicant's
6 eligibility, including costs to conduct all investigations
7 necessary for processing the application. An investigation may not
8 begin until the applicant has submitted all required fees to the
9 commission. If additional fees are required by the commission
10 during the course of the investigation or processing of the
11 application and are not received by the commission by the 15th day
12 after the date the commission notifies the applicant of the amount
13 of the fees, the investigation and evaluation processes shall be
14 suspended.

15 (d) The commission shall retain an application fee paid
16 under this section to defray costs incurred in the administration
17 and enforcement of this chapter relating to the operation of video
18 lottery terminals.

19 Sec. 466.523. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
20 MANAGER: EMPLOYEE INFORMATION. (a) A video lottery retailer or
21 video lottery manager shall provide to the commission the name and
22 address of each employee involved in the operation of video lottery
23 games and the name and address of the providers of surety and
24 insurance required by Section 466.587.

25 (b) Not later than the 10th day following the date of the
26 change, a license holder must report to the commission any change in
27 an officer, partner, director, key employee, substantial

1 interest-holder, video lottery game operation employee, or owner
2 and any change in a surety or insurance provider.

3 Sec. 466.525. VIDEO LOTTERY TERMINAL ESTABLISHMENT:
4 REQUIREMENTS; LOCATION. (a) A video lottery retailer or video
5 lottery manager may not operate video lottery terminals at any
6 place that is not licensed as a video lottery terminal
7 establishment.

8 (b) The commission by rule shall establish standards for
9 video lottery terminal establishments to ensure that
10 establishments are accessible, safe, comfortable, durable, and of
11 sufficiently high-quality construction to promote investments in
12 establishments and related facilities that foster lasting economic
13 development and continuity in producing state revenue, and that
14 protect the health and welfare of employees, patrons, and all state
15 residents. The standards must include or incorporate high-quality
16 commercial building standards, including safety, air-conditioning,
17 heating, and electrical standards.

18 (c) An applicant for a video lottery terminal establishment
19 license must:

20 (1) consent to the application of state laws with
21 exclusive venue in Travis County, Texas, related to any action
22 arising out of the operation of video lottery terminals;

23 (2) provide office space for at least one commission
24 employee as required by commission rule; and

25 (3) provide free and unrestricted access to the
26 establishment by the commission.

27 (d) An applicant for a video lottery terminal establishment

1 license must provide the maps, surveys, site plans, architectural
2 plans, and financial statements required by the commission and
3 update the information at least annually if required by the
4 commission.

5 (e) Notwithstanding Section 466.155, the commission may not
6 deny, suspend, or revoke a license under this subchapter based on
7 the fact that a video lottery terminal establishment or a proposed
8 video lottery terminal establishment is a location for which a
9 person holds a wine and beer retailer's permit, mixed beverage
10 permit, mixed beverage late hours permit, private club registration
11 permit, or private club late hours permit, issued under Chapter 25,
12 28, 29, 32, or 33, Alcoholic Beverage Code.

13 Sec. 466.526. LICENSE HOLDER AS SALES AGENT. The holder of
14 a video lottery retailer or video lottery manager license may
15 operate as a sales agent for lottery tickets in accordance with this
16 chapter.

17 Sec. 466.527. LICENSE TERM; RENEWAL ELIGIBILITY. (a)
18 Unless suspended or revoked, a license issued under this subchapter
19 expires on the date specified in the license, which may not be later
20 than the fifth anniversary of the date of issuance.

21 (b) To be eligible for renewal of a license, an applicant
22 must satisfy all applicable licensing requirements under this
23 subchapter.

24 Sec. 466.528. RULES FOR ADDITIONAL LICENSE QUALIFICATIONS.
25 The commission by rule may establish other license qualifications
26 the commission determines are in the public interest and consistent
27 with the declared policy of this state.

1 Sec. 466.529. APPLICATION AS REQUEST FOR CHARACTER
2 DETERMINATION. An application under this subchapter to receive or
3 renew a license, registration, or approval or to be found suitable
4 constitutes a request for a determination of the applicant's
5 general character, integrity, and ability to participate or engage
6 in or be associated with the operation of video lottery terminals.

7 Sec. 466.530. IMMUNITY FOR STATEMENT MADE IN PROCEEDING OR
8 INVESTIGATION. Any written or oral statement made in the course of
9 an official commission proceeding or investigative activities
10 related to an application for commission licensing, registration,
11 or other approval under this subchapter, by any member or agent or
12 any witness testifying under oath that is relevant to the purpose of
13 the proceeding is absolutely privileged and does not impose
14 liability for defamation or constitute a ground for recovery in any
15 civil action.

16 Sec. 466.531. SUITABILITY FINDING. To promote the
17 integrity and security of the lottery, the commission in its
18 discretion may require a suitability finding for any person doing
19 business with or in relation to the operation of video lottery
20 terminals who is not otherwise required to obtain a license,
21 registration, or approval from the commission for the person's
22 video lottery-related operations.

23 Sec. 466.532. SUMMARY SUSPENSION OF VIDEO LOTTERY RETAILER
24 OR VIDEO LOTTERY MANAGER LICENSE; TERMINAL DISABLED. (a) The
25 commission may summarily suspend the license of a video lottery
26 retailer or video lottery manager without notice or hearing if the
27 commission finds the action is necessary to maintain the integrity,

1 security, honesty, or fairness of the operation or administration
2 of the lottery or to prevent financial loss to this state and:

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

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

8 (3) the license holder refuses to allow the
9 commission, the commission's agents, or the state auditor, or their
10 designees, to examine the license holder's books, records, papers,
11 or other objects under Section 466.017; or

12 (4) the executive director learns the license holder
13 failed to disclose information that would, if disclosed, render the
14 video lottery retailer or video lottery manager ineligible for a
15 license under this subchapter.

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

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

20 (1) a proceeding to summarily suspend the license is
21 initiated;

22 (2) the commission discovers the license holder failed
23 to deposit money received from video lottery terminal operation as
24 required if the license is being summarily suspended under this
25 section; or

26 (3) an act or omission occurs that, under commission
27 rules, justifies the termination of video lottery terminal

1 operations to:

2 (A) protect the integrity of the lottery or the
3 public health, welfare, or safety; or

4 (B) prevent financial loss to this state.

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

8 Sec. 466.533. LICENSING, REGISTRATION, SUITABILITY, AND
9 REGULATORY APPROVAL AS REVOCABLE PERSONAL PRIVILEGES. (a) An
10 applicant for a license, registration, suitability, or other
11 affirmative regulatory approval under this subchapter does not have
12 any right to the license, registration, suitability, or approval
13 sought.

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

18 (c) The courts of this state do not have jurisdiction to
19 review a decision to deny, limit, or condition the license,
20 registration, suitability, or approval unless the judicial review
21 is sought on the ground that the denial, limitation, or condition is
22 based on a suspect classification, such as race, color, religion,
23 sex, or national origin, in violation of the Equal Protection
24 Clause of the Fourteenth Amendment to the United States
25 Constitution. The state court must affirm the commission's action
26 unless the violation is proven by clear and convincing evidence. If
27 a state court has jurisdiction over a claim under this section, then

1 this state's sovereign immunity is waived only to the extent
2 expressly provided by Section 466.601.

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

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

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

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

21 Sec. 466.535. CAPITAL INVESTMENTS AND IMPROVEMENT
22 REQUIREMENTS FOR VIDEO LOTTERY TERMINAL ESTABLISHMENT. A video
23 lottery retailer or video lottery manager shall provide all
24 necessary capital investments and required improvements at a video
25 lottery terminal establishment operated by the retailer or manager.

26 Sec. 466.536. VIDEO LOTTERY TERMINAL: PROCUREMENT AND FEE.

27 (a) The commission shall provide all video lottery retailers or

1 video lottery managers with a list of registered video lottery
2 terminal providers, video lottery games, and video lottery
3 terminals authorized for operation under this subchapter.

4 (b) At the time and in the manner prescribed by commission
5 rule, a video lottery retailer or video lottery manager shall remit
6 to the commission a fee of \$_____ for each video lottery terminal
7 delivered to the video lottery terminal establishment operated by
8 the retailer or manager.

9 Sec. 466.537. VIDEO LOTTERY TERMINAL: DISTRIBUTION AND
10 COMMISSION APPROVAL. (a) A video lottery terminal provider may not
11 distribute a video lottery terminal or other video lottery
12 equipment for placement at a video lottery terminal establishment
13 in this state unless the video lottery terminal has been approved by
14 the commission.

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

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

23 Sec. 466.538. VIDEO LOTTERY TERMINAL: TESTING; REPORT. (a)
24 A video lottery terminal provider shall submit two copies of
25 terminal illustrations, schematics, block diagrams, circuit
26 analysis, technical and operation manuals, and any other
27 information requested by the commission for the purpose of

1 analyzing and testing the video lottery terminal or other video
2 lottery equipment.

3 (b) The commission may require up to four working models of
4 a video lottery terminal to be transported to a location designated
5 by the commission for testing, examination, and analysis. The video
6 lottery terminal provider shall pay all the costs of testing,
7 examination, analysis, and transportation of the models. The
8 testing, examination, and analysis of video lottery terminals may
9 require dismantling of the terminal, and some tests may result in
10 damage or destruction to one or more electronic components of the
11 model. The commission may require a video lottery terminal
12 provider to provide specialized equipment or pay for an independent
13 technical expert or laboratory to test the terminal.

14 (c) The video lottery terminal provider shall pay the cost
15 of transporting up to four video lottery terminals to the
16 headquarters of the commission or a location designated by the
17 commission. The commission shall conduct an acceptance test to
18 determine terminal functions and compatibility with the video
19 lottery central system. At the expense of the video lottery
20 terminal provider, the commission may contract with an independent
21 technical expert or laboratory to determine compatibility and
22 terminal functions. If the video lottery terminal fails the
23 acceptance test conducted by the commission, the video lottery
24 terminal provider shall make all modifications required by the
25 commission before distribution in this state.

26 (d) After each test under this section has been completed,
27 the commission shall provide the video lottery terminal provider

1 with a report containing findings, conclusions, and pass or fail
2 results. The report may contain recommendations for modifications
3 to bring a video lottery terminal into compliance with this chapter
4 and commission standards.

5 (e) Before approving a particular video lottery terminal
6 model, the commission may require a field trial period not to exceed
7 60 days for a licensed video lottery terminal establishment to test
8 the terminal. During the trial period, modifications may not be
9 made to the video lottery terminal model unless approved by the
10 commission.

11 Sec. 466.539. VIDEO LOTTERY TERMINAL: INSTALLATION;
12 MODIFICATION REQUEST. (a) A video lottery terminal provider is
13 responsible for the assembly and installation of all video lottery
14 terminals and other video lottery equipment.

15 (b) A video lottery terminal provider or a video lottery
16 retailer or video lottery manager may not change the assembly or
17 operational functions of a video lottery terminal authorized by the
18 commission for placement in this state unless a request for
19 modification of an existing video lottery terminal prototype is
20 approved by the commission. The request must contain:

21 (1) a detailed description of the type of change;
22 (2) a detailed description of the reasons for the
23 change; and

24 (3) technical documentation of the change.

25 (c) A video lottery terminal approved by the commission for
26 placement at a video lottery terminal establishment must conform to
27 the exact specifications of the video lottery terminal prototype

1 tested and approved by the commission.

2 Sec. 466.540. VIDEO LOTTERY TERMINAL REMOVAL. (a) If any
3 video lottery terminal that has not been approved by the commission
4 is distributed by a video lottery terminal provider or operated by a
5 video lottery retailer or video lottery manager or if an approved
6 video lottery terminal malfunctions, the commission shall require
7 the terminal to be removed from use and play.

8 (b) The commission may order that an unapproved terminal be
9 seized and destroyed and that a malfunctioning terminal not
10 repaired and returned to play within 30 days or as otherwise
11 prescribed by the commission be disposed of in compliance with
12 Section 466.543(b).

13 (c) The commission may suspend or revoke the license of a
14 video lottery retailer or video lottery manager or the registration
15 of a video lottery terminal provider for the distribution,
16 possession, or operation of an unauthorized video lottery terminal.

17 Sec. 466.541. VIDEO LOTTERY TERMINAL SPECIFICATIONS. (a)
18 The commission shall adopt rules for approval of video lottery
19 terminals, including requirements for video lottery game tickets,
20 maximum and minimum payout, and maximum wagers.

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

23 (1) the terminal must:

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

1 the video lottery terminal to randomly select symbols or numbers;

2 (B) allow the player to win additional game play
3 credits, coins, or tokens based on game rules that establish the
4 random selection of winning combinations of symbols or numbers and
5 the number of free play credits, coins, or tokens to be awarded for
6 each winning combination; and

7 (C) allow the player at any time to clear all game
8 play credits and receive a video lottery ticket entitling the
9 player to receive the cash value of those credits;

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

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

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

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

1 (6) communication equipment and devices must be
2 installed to enable each video lottery terminal to communicate with
3 the video lottery central system through the use of a
4 communications protocol provided by the commission to each
5 registered video lottery terminal provider, which must include
6 information retrieval and programs to activate and disable the
7 terminal; and

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

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

15 Sec. 466.542. VIDEO LOTTERY TERMINALS: HOURS OF OPERATION;
16 COMMUNICATION; LOCATION. (a) The hours of operation for video
17 lottery terminals are subject to restrictions or other conditions
18 provided by commission rules.

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

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

1 (d) Except as provided by a gaming agreement, placement or
2 movement of video lottery terminals in a video lottery terminal
3 establishment must be consistent with a commission-approved video
4 lottery terminal establishment floor plan.

5 Sec. 466.543. VIDEO LOTTERY TERMINAL: TRANSPORT;
6 DISPOSITION OF OBSOLETE TERMINAL. (a) The transportation and
7 movement of video lottery terminals into or within this state is
8 prohibited, except as permitted by this subchapter and approved by
9 the commission.

10 (b) An obsolete video lottery terminal or a video lottery
11 terminal that is no longer in operation must be promptly reported to
12 the commission and, if taken out of use and play, must immediately
13 be sold or otherwise transferred to a registered video lottery
14 terminal provider or another person in a jurisdiction outside this
15 state for use in that jurisdiction.

16 Sec. 466.544. VIDEO LOTTERY TERMINALS: MAXIMUM NUMBER.
17 (a) The commission by rule shall establish the maximum number of
18 video lottery terminals that may be operated at each video lottery
19 terminal establishment operated by a video lottery retailer or
20 video lottery manager based on factors prescribed by commission
21 rule, including demographics, to ensure that the number of permits
22 to operate video lottery terminals requested by the retailer or
23 manager is not detrimental to the public health, safety, welfare,
24 and economic development of this state and will result in the
25 optimization of revenue to fund state governmental programs.

26 (b) The commission shall determine the number of video
27 lottery terminals that may be operated by an Indian tribe in

1 connection with the tribe's video lottery system in accordance with
2 the applicable gaming agreement entered into pursuant to this
3 chapter and the criteria prescribed by Subsection (a).

4 Sec. 466.545. LICENSE AND REGISTRATION INVESTIGATIVE TRUST
5 FUND. (a) The investigative trust fund is created as a trust fund
6 to pay all expenses incurred by the commission related to oversight
7 investigations of applicants for a license, registration, or
8 approval and of license, registration, or approval holders.

9 (b) The commission shall determine the amount initially
10 deposited and the amount maintained in the fund by each applicant or
11 license, registration, or approval holder and shall administer the
12 money in the fund as a revolving fund available to the commission.

13 (c) If the commission does not receive the initial deposit
14 required by Subsection (b) before the 30th day following the date
15 the commission notifies the applicant or license, registration, or
16 approval holder of the initial deposit amount, the commission may
17 not issue or renew the license, registration, or approval. The
18 investigative trust fund is in the state treasury and is held in
19 trust with the comptroller's treasury operations division.

20 (d) Expenses may be advanced from the investigative fund,
21 and expenditures may be made from the fund without regard to any
22 other state law regarding travel expenses of state employees.

23 (e) The commission at least quarterly shall provide each
24 applicant or license, registration, or approval holder a written
25 accounting of the costs and charges incurred in oversight
26 investigations for that applicant or holder. An applicant or a
27 license, registration, or approval holder shall deposit money not

1 later than the 10th day after receipt of the accounting to maintain
2 the fund balance required by the commission.

3 (f) If an applicant for a license, registration, or approval
4 is not licensed, registered, or approved, or if a license,
5 registration, or approval is not renewed, the commission shall
6 refund to the applicant or holder any balance in the fund paid by
7 the applicant or holder not offset by costs incurred in an
8 investigation for that applicant or holder.

9 Sec. 466.546. CONSENT TO COMMISSION DETERMINATION. (a) An
10 application for a license, registration, finding of suitability, or
11 other approval under this chapter constitutes a request to the
12 commission for a decision on the applicant's general suitability,
13 character, integrity, and ability to participate or engage in or be
14 associated with the lottery in the manner or position sought.

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

19 Sec. 466.547. ABSOLUTE AUTHORITY OF COMMISSION. To protect
20 the integrity of the lottery or the public health, welfare, or
21 safety, or to prevent financial loss to this state, the commission
22 has full and absolute power and authority to:

23 (1) deny any application or limit, condition,
24 restrict, revoke, or suspend any license, registration, or finding
25 of suitability or approval; and

26 (2) fine any person licensed, registered, found
27 suitable, or approved for any cause deemed reasonable by the

1 commission.

2 Sec. 466.548. WAIVER OF REQUIREMENTS. (a) The commission
3 may waive, either selectively or by general rule, one or more of the
4 requirements of Sections 466.512 and 466.521 if the commission
5 makes a written finding that the waiver is consistent with the
6 policy of this state, the public health, safety, and welfare, and
7 the integrity of the lottery.

8 (b) The commission may waive any requirement under this
9 chapter for a finding of suitability of an institutional investor
10 that is a substantial interest holder with respect to the
11 beneficial ownership of the voting securities of a publicly traded
12 corporation if the institutional investor holds the securities for
13 investment purposes only and applies for a waiver in compliance
14 with Section 466.549 and commission rules.

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

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

27 (e) A waiver granted under Subsection (b) is effective only

1 as long as the institutional investor's direct or indirect
2 beneficial ownership interest in the voting securities meets the
3 limitations set forth in this section, and if the institutional
4 investor's interest exceeds the limitation at any time, the
5 investor is subject to the suitability findings required under this
6 subchapter.

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

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

15 (2) on the conditions that:

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

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

27 (g) The one-year time period under Subsection (f)(2)(B) may

1 be extended for a reasonable time on commission approval.

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

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

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

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

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

26 (5) making financial and other inquiries of management
27 of the type normally made by securities analysts for information

1 purposes and not to cause a change in management, policies, or
2 operations; and

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

5 (i) For purposes of this section, "debt restructuring"
6 means:

7 (1) a proceeding under the United States Bankruptcy
8 Code; or

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

12 Sec. 466.549. WAIVER APPLICATION REQUIREMENTS. An
13 application for a waiver under Section 466.548(b) must include:

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

18 (2) a certification, made under oath and penalty of
19 perjury, that:

20 (A) states that the voting securities were
21 acquired and are held for investment purposes only in accordance
22 with Section 466.548;

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

1 the application or any waiver granted under Section 466.548(b); and

2 (C) includes a statement by the signatory
3 explaining the basis of the signatory's authority to sign the
4 certification and bind the institutional investor to its terms;

5 (3) a description of all actions, if any, taken or
6 expected to be taken by the institutional investor related to the
7 activities described in Section 466.548(f);

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

10 (A) the officers and directors of the
11 institutional investor or the officers' and directors' equivalents;
12 and

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

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

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

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

27 (8) a list of all securities of the publicly traded

1 corporation registered with or licensed by the commission that are
2 or were beneficially owned by the institutional investor or its
3 affiliates in the preceding year, including a description of the
4 securities, the amount of the securities, and the date of
5 acquisition or sale of the securities;

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

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

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

27 (12) a copy of any filing made under the Securities

1 Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) with respect to
2 the acquisition or proposed acquisition of voting securities of the
3 publicly traded corporation registered with or licensed by the
4 commission; and

5 (13) any additional information the commission may
6 request.

7 Sec. 466.550. CHANGE IN INVESTMENT FOLLOWING WAIVER;
8 NOTICE. (a) An institutional investor that has been granted a
9 waiver of a finding of suitability under Section 466.548 and that
10 subsequently intends not to hold the investor's voting securities
11 of the publicly traded corporation for investment purposes only or
12 that intends to take any action inconsistent with the investor's
13 prior intent shall, not later than the second business day after the
14 date of the decision, deliver notice to the commission in writing of
15 the change in the investor's investment intent. The commission may
16 then take any action the commission deems appropriate.

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

22 (c) Any publicly traded corporation registered with or
23 licensed by the commission shall immediately notify the commission
24 of any information about, fact concerning, or actions of an
25 institutional investor holding any of its voting securities that
26 may materially affect the institutional investor's eligibility to
27 hold a waiver under Section 466.548.

1 Sec. 466.551. EFFECT OF DENIAL OF LICENSE OR REGISTRATION.

2 (a) A person whose application for a license or registration has
3 been denied may not have any interest in or association with a video
4 lottery retailer or video lottery manager or any other business
5 conducted in connection with video lottery without prior approval
6 of the commission.

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

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

17 Sec. 466.553. PRACTICE BY VIDEO LOTTERY RETAILER OR VIDEO
18 LOTTERY MANAGER. A video lottery retailer or video lottery manager
19 must:

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

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

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

25 (4) promptly report all video lottery terminal
26 malfunctions and down-time;

27 (5) install, post, and display prominently any

1 material required by the commission;

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

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

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

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

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

17 Sec. 466.554. RACETRACK REQUIREMENTS. (a) Except as
18 provided by Section 466.520(b) and this section, a video lottery
19 retailer at all times must hold a valid pari-mutuel wagering
20 license. The commission may allow a video lottery retailer whose
21 pari-mutuel wagering license has lapsed or been revoked, suspended,
22 or surrendered to reapply for a license in order to operate the
23 video lottery terminal establishment or by rule may establish a
24 period not to exceed two years during which time the video lottery
25 terminal establishment may be operated pending acquisition by a
26 person qualified and licensed under this chapter to operate video
27 lottery terminals.

1 (b) If a video lottery retailer is not licensed as required
2 by Subsection (a) before the second anniversary of the date a
3 license lapses or is revoked, suspended, or surrendered or a new
4 video lottery manager or video lottery retailer is not licensed and
5 authorized to operate the facility before the second anniversary,
6 the racetrack shall permanently lose eligibility under this chapter
7 to operate video lottery terminals.

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

14 Sec. 466.556. PRIZE RULES. The commission shall adopt
15 rules governing:

16 (1) the amount a player may be charged to play each
17 video lottery game; and

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

20 Sec. 466.557. VIDEO LOTTERY CENTRAL SYSTEM: COMMUNICATION
21 TECHNOLOGY. The video lottery central system provider shall pay
22 for the installation and operation of commission-approved
23 communication technology to provide real-time communication
24 between each video lottery terminal and the video lottery central
25 system.

26 Sec. 466.558. RESPONSIBILITY FOR VIDEO LOTTERY GAME
27 OPERATIONS. (a) A video lottery retailer or a video lottery

1 manager, if applicable, is responsible for the management of video
2 lottery game operations, including:

- 3 (1) the validation and payment of prizes; and
4 (2) the management of cashiers, food and beverage
5 workers, floor workers, security personnel, the security system,
6 building completion, janitorial services, landscaping design, and
7 maintenance.

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

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

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

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

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

25 (4) ensure that video lottery terminals are in the
26 sight and control of designated employees of the video lottery
27 retailer or video lottery manager and in the sight of video cameras

1 as required under this subchapter;

2 (5) ensure that video lottery terminals are placed and
3 remain placed in the specific locations in the video lottery
4 terminal establishment that are consistent with the retailer's or
5 manager's commission-approved floor plan;

6 (6) monitor video lottery terminals to prevent access
7 to or play by persons who are under 18 years of age or who are
8 visibly intoxicated;

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

19 (A) a license holder may cash a check for a player
20 if the license holder exercises reasonable caution cashing the
21 check and does not cash checks for any player in an amount exceeding
22 \$1,000 in any 24-hour period; and

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

27 (8) pay all credits won by a player on presentment of a

1 valid winning video lottery game ticket;

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

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

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

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

15 (13) annually submit an audited financial statement to
16 the commission in a format approved by the commission.

17 Sec. 466.560. 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. 466.561. 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 incident, without regard to materiality, a sequential
27 number and, at a minimum, provide the following information in a

1 permanent record prepared in accordance with commission rules to
2 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. 466.562. 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 and shall

1 be instructed to ask the players to leave the establishment. Signs
2 and other materials shall be readily available to direct compulsive
3 players to agencies that offer appropriate counseling.

4 Sec. 466.563. REPORT ON LITIGATION. (a) A video lottery
5 retailer or video lottery manager shall report to the commission
6 any litigation relating to the retailer's or manager's video
7 lottery terminal establishment, including a criminal proceeding, a
8 proceeding involving an issue related to racing activities that
9 impact video lottery operations, or a matter related to character
10 or reputation relevant to a person's suitability under this
11 subchapter.

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

15 Sec. 466.564. COMMISSION APPROVAL REQUIRED FOR PROCEDURES
16 AND ADMINISTRATIVE AND ACCOUNTING CONTROLS. (a) The commission's
17 approval is required for:

18 (1) all internal procedures and administrative and
19 accounting controls of a video lottery retailer or video lottery
20 manager; and

21 (2) all internal procedures and administrative and
22 accounting controls of a video lottery terminal provider that
23 relate to the manufacturing and distribution of video lottery
24 terminals to be used in this state.

25 (b) The commission by rule shall establish general
26 accounting and auditing requirements and internal control
27 standards for video lottery retailers and video lottery managers.

1 Sec. 466.565. FINANCIAL AND OPERATING INFORMATION. A video
2 lottery retailer or video lottery manager shall submit financial
3 and operating information and statistical data to the commission in
4 a format approved by the commission in order for the financial
5 operating position of the retailer or manager and performance and
6 trends of the video lottery game industry in this state to be
7 evaluated.

8 Sec. 466.566. VIDEO LOTTERY TERMINAL EVENTS. A video
9 lottery retailer or video lottery manager shall keep a database of
10 video lottery terminal events. The commission by rule shall
11 determine what constitutes a video lottery terminal event for
12 purposes of this section.

13 Sec. 466.567. EMPLOYEE REPORTING. (a) On or before the
14 15th day of each month, a video lottery retailer or video lottery
15 manager shall submit to the commission an employee report for the
16 video lottery terminal establishment operated by the retailer or
17 manager. For each employee of the retailer or manager, the report
18 must provide the employee's name, job title, date of birth, and
19 social security number.

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

23 (c) The commission may conduct criminal history
24 investigations for employees of video lottery retailers and video
25 lottery managers.

26 (d) The commission may prohibit an employee from performing
27 any act relating to video lottery terminals if the commission finds

1 that an employee has:

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

4 (2) concealed or refused to disclose any material fact
5 in any commission investigation;

6 (3) committed, attempted, or conspired to commit
7 larceny or embezzlement;

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

10 (5) accepted employment in a position for which
11 commission approval is required after commission approval was
12 denied for a reason involving personal unsuitability or after
13 failing to apply for a license or approval on commission request;

14 (6) been prohibited under color of governmental
15 authority from being present on the premises of any gaming
16 establishment or any establishment where pari-mutuel wagering is
17 conducted for any reason relating to improper gambling activity or
18 for any illegal act;

19 (7) wilfully defied any legislative investigative
20 committee or other officially constituted body acting on behalf of
21 the United States or any state, county, or municipality that sought
22 to investigate alleged or potential crimes relating to gaming,
23 corruption of public officials, or any organized criminal
24 activities; or

25 (8) been convicted of any felony or any crime
26 involving moral turpitude.

27 (e) The commission may prohibit an employee from performing

1 any act relating to video lottery terminals based on a revocation or
2 suspension of any gaming or wagering license, permit, or approval
3 or for any other reason the commission finds appropriate, including
4 a refusal by a regulatory authority to issue a license, permit, or
5 other approval for the employee to engage in or be involved with the
6 lottery or with regulated gaming or pari-mutuel wagering in any
7 jurisdiction.

8 (f) In this section, "employee" includes any person
9 connected directly with or compensated by an applicant or license
10 holder as an agent, personal representative, consultant,
11 independent contractor, or lobbyist for the advocacy of the
12 adoption or amendment of a law related to gaming or lottery
13 activities or the furtherance of gaming or lottery activities in
14 any jurisdiction or as otherwise specified by commission rule.

15 Sec. 466.568. REPORT OF VIOLATIONS. A person who holds a
16 license or registration under this subchapter shall immediately
17 report a violation or suspected violation of this chapter or a rule
18 adopted under this chapter by any license or registration holder,
19 by an employee of a license or registration holder, or by any person
20 on the premises of a video lottery terminal establishment, whether
21 or not associated with the license or registration holder.

22 Sec. 466.569. SECURITY. (a) In addition to the security
23 provisions applicable under Section 466.020, a video lottery
24 retailer or video lottery manager shall comply with the following
25 security procedures:

26 (1) all video lottery terminals must be continuously
27 monitored through the use of a closed-circuit television system

1 that records activity for a continuous 24-hour period and all video
2 tapes or other media used to store video images shall be retained
3 for at least 30 days and made available to the commission on
4 request;

5 (2) access to video lottery terminal areas shall be
6 restricted to persons over the age of 18;

7 (3) the video lottery retailer or video lottery
8 manager must submit for commission approval a security plan and a
9 floor plan of the area where video lottery terminals are to be
10 operated showing video lottery terminal locations and security
11 camera mount locations; and

12 (4) each license holder shall employ at least the
13 minimum number of private security personnel the commission
14 determines is necessary to provide for safe and approved operation
15 of the video lottery terminal establishment and the safety and
16 well-being of the players.

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

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

22 (d) The commission may adopt rules to impose additional
23 surveillance and security requirements related to video lottery
24 terminal establishments and the operation of video lottery
25 terminals.

26 Sec. 466.570. VIDEO LOTTERY TERMINAL ESTABLISHMENT:
27 COMMISSION RIGHT TO ENTER. The commission or the commission's

1 representative after displaying appropriate identification and
2 credentials has the free and unrestricted right to enter the
3 premises of a video lottery terminal establishment and to enter any
4 other locations involved in operation or support of video lottery
5 at all times to examine the systems and to inspect and copy the
6 records of a video lottery retailer or video lottery manager
7 pertaining to the operation of video lottery.

8 Sec. 466.571. APPOINTMENT OF SUPERVISOR. (a) The
9 commission by rule may provide for the appointment of a supervisor
10 to manage and operate a video lottery terminal establishment at the
11 direction of the commission and perform any act that a video lottery
12 retailer or video lottery manager is entitled to perform in the
13 event that:

14 (1) a video lottery retailer license or other license
15 required for operation of the establishment is revoked or
16 suspended, lapses, or is surrendered;

17 (2) a video lottery terminal establishment has been
18 conveyed or transferred to a secured party receiver or trustee who
19 does not hold the licenses necessary to operate the establishment;
20 or

21 (3) any other event occurs that causes the
22 establishment to cease the operation of video lottery terminals.

23 (b) The rules may allow the commission to:

24 (1) take any action or adopt any procedure necessary
25 to operate a video lottery terminal establishment pending the
26 licensing of a video lottery retailer, video lottery manager, the
27 video lottery establishment, or a successor on the transfer or sale

1 of the establishment or property; and

2 (2) if necessary to continue the operation of the
3 video lottery establishment, sell the establishment to a person
4 that holds or has applied for the licenses required to operate the
5 establishment under this subchapter and make appropriate
6 distributions of the proceeds of the sale.

7 Sec. 466.586. OFFENSE: CONVEYANCE OF VIDEO LOTTERY
8 TERMINAL ESTABLISHMENT PROPERTY. (a) A person commits an offense
9 if during the pendency of any proceeding before the commission that
10 may result in the appointment of a supervisor or during the period
11 of supervision the person:

12 (1) sells, leases, or otherwise conveys for less than
13 full market value or pledges as security any property of a video
14 lottery terminal establishment; or

15 (2) removes from this state or secretes from the
16 commission or the supervisor any property, money, books, or records
17 of the video lottery terminal establishment, including evidences of
18 debts owed to the establishment.

19 (b) An offense under Subsection (a) is a felony of the third
20 degree.

21 Sec. 466.587. 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 chapter.

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, including:

18 (1) insurance for performance;

19 (2) insurance against losses caused by fraudulent or
20 dishonest acts by an officer or employee of a video lottery
21 retailer, video lottery manager, or video lottery terminal
22 provider;

23 (3) general liability insurance;

24 (4) property insurance;

25 (5) liability insurance for drivers and vehicles
26 employed by a video lottery retailer or video lottery manager; and

27 (6) crime insurance for the location.

1 Sec. 466.588. LIABILITY FOR CREDIT AWARDED OR DENIED;
2 PLAYER DISPUTE. (a) This state and the commission are not liable
3 for any video lottery terminal malfunction or error by a video
4 lottery retailer, video lottery manager, or video lottery terminal
5 provider that causes credit to be wrongfully awarded or denied to
6 players.

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

10 (1) if the fair market value of the prize is less than
11 \$1,000, the dispute shall be resolved in accordance with the
12 commission-approved written policies of the video lottery retailer
13 or video lottery manager and without any relief available from the
14 commission or this state; or

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

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

22 Sec. 466.589. STATE VIDEO LOTTERY ACCOUNT. (a) The
23 commission shall deposit funds received under this subchapter to
24 the state video lottery account. The state video lottery account is
25 a special account in the general revenue fund. The account consists
26 of all revenue received by this state from the operation of video
27 lottery terminals. Except as otherwise provided by this

1 subchapter, money in the fund may be used solely to fund state
2 governmental programs and the administration of the video lottery
3 system.

4 (b) Two percent of the net terminal income received by this
5 state under Section 466.590 shall be allocated to the commission to
6 defray expenses incurred in administering this chapter related to
7 video lottery, including expenses incurred to operate the video
8 lottery central system. All money allocated to the commission
9 under this subsection may be retained by the commission to defray
10 expenses of administering this chapter related to video lottery and
11 shall be deposited in the state video lottery account.

12 Sec. 466.590. ALLOCATION OF NET TERMINAL INCOME; TRANSFER
13 OF MONEY. (a) Net terminal income derived from the operation of
14 video lottery games in this state is allocated as follows:

15 (1) net terminal income generated from the operation
16 of video lottery terminals at a video lottery terminal
17 establishment shall be distributed 70 percent to the establishment
18 and 30 percent to this state; and

19 (2) net terminal income generated from the operation
20 of video lottery terminals on Indian lands under a gaming agreement
21 authorized under this subchapter shall be distributed in the amount
22 set forth in the gaming agreement.

23 (b) The commission shall require a video lottery retailer or
24 video lottery manager to establish a separate electronic funds
25 transfer account for depositing money from video lottery terminal
26 operations, making payments to the commission or its designee, and
27 receiving payments from the commission or its designee.

1 (c) A video lottery retailer or video lottery manager may
2 not make payments to the commission in cash. As authorized by the
3 commission, a video lottery retailer or video lottery manager may
4 make payments to the commission by cashier's check.

5 (d) The commission at least daily shall transfer this
6 state's share of net terminal income of a video lottery retailer or
7 video lottery manager to the commission through the electronic
8 transfer of the money.

9 (e) The commission by rule shall establish the procedures
10 for:

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

13 (2) handling money from video lottery terminal
14 operations.

15 (f) Unless otherwise directed by the commission, a video
16 lottery retailer or a video lottery manager shall maintain in its
17 account this state's share of the net terminal income from the
18 operation of video lottery terminals, to be electronically
19 transferred by the commission on dates established by the
20 commission. On a license holder's failure to maintain this
21 balance, the commission may disable all of a license holder's video
22 lottery terminals until full payment of all amounts due is made.
23 Interest shall accrue on any unpaid balance at a rate consistent
24 with the amount charged under Section 111.060, Tax Code. The
25 interest shall begin to accrue on the date payment is due to the
26 commission.

27 (g) In the commission's sole discretion, rather than

1 disable a license holder's video lottery terminals under Subsection
2 (f), the commission may elect to impose a fine on a license holder
3 in an amount determined by the commission not to exceed \$250,000 for
4 each violation. If the license holder fails to remedy the
5 violation, including payment of any amounts assessed by or due to
6 this state, within 10 days, the commission may disable the license
7 holder's video lottery terminals or use any other means for
8 collection as provided by the penalty chart established by the
9 commission.

10 (h) A video lottery retailer or video lottery manager is
11 solely responsible for resolving any income discrepancies between
12 actual money collected and the net terminal income reported by the
13 video lottery central system. Unless an accounting discrepancy is
14 resolved in favor of the video lottery retailer or video lottery
15 manager, the commission may not make any credit adjustments. Any
16 accounting discrepancies which cannot otherwise be resolved shall
17 be resolved in favor of the commission.

18 (i) A video lottery retailer and video lottery manager shall
19 remit payment as directed by the commission if the electronic
20 transfer of money is not operational or the commission notifies the
21 license holder that other remittance is required. The license
22 holder shall report this state's share of net terminal income, and
23 remit the amount generated from the terminals during the reporting
24 period.

25 Sec. 466.591. COMMISSION EXAMINATION OF FINANCIAL RECORDS.
26 The commission may examine all accounts, bank accounts, financial
27 statements, and records in the possession or control of a person

1 licensed under this subchapter or in which the license holder has an
2 interest. The license holder must authorize and direct all third
3 parties in possession or in control of the accounts or records to
4 allow examination of any of those accounts or records by the
5 commission.

6 Sec. 466.592. FINANCIAL INFORMATION REQUIRED. (a) A video
7 lottery retailer or video lottery manager shall furnish to the
8 commission all information and bank authorizations required to
9 facilitate the timely transfer of money to the commission.

10 (b) A video lottery retailer or video lottery manager must
11 provide the commission 30 days' advance notice of any proposed
12 account changes in information and bank authorizations to assure
13 the uninterrupted electronic transfer of money.

14 (c) The commission is not responsible for any interruption
15 or delays in the transfer of money. The video lottery retailer or
16 video lottery manager is responsible for any interruption or delay
17 in the transfer of money.

18 Sec. 466.593. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT
19 HORSE RACETRACKS. A racetrack that conducts horse races under the
20 Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes)
21 shall allocate the percentage of its share of net terminal income
22 retained under Section 466.590(a) to a purse fund as provided by
23 Section 6.095, Texas Racing Act (Article 179e, Vernon's Texas Civil
24 Statutes).

25 Sec. 466.594. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT
26 GREYHOUND RACETRACKS. A racetrack that conducts greyhound races
27 under the Texas Racing Act (Article 179e, Vernon's Texas Civil

1 Statutes) shall allocate the percentage of its share of net
2 terminal income retained under Section 466.590(a) to a purse fund
3 as provided by Section 6.095, Texas Racing Act (Article 179e,
4 Vernon's Texas Civil Statutes).

5 Sec. 466.595. LIABILITY OF VIDEO LOTTERY RETAILER AND VIDEO
6 LOTTERY MANAGER. (a) A video lottery retailer, video lottery
7 manager, or both, are liable to the commission for the state's share
8 of net terminal income reported by the video lottery central
9 system.

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

16 (c) If the video lottery retailer or video lottery manager
17 is not an individual, each officer, director, or owner of the video
18 lottery retailer or video lottery manager is personally liable to
19 the commission for the full amount of the money held in trust,
20 except that shareholders of a publicly held corporation shall be
21 liable in an amount not to exceed the value of their equity
22 investment.

23 Sec. 466.596. PRIZE PAYMENT AND REDEMPTION. (a) Payment of
24 prizes is the sole and exclusive responsibility of the video
25 lottery retailer or video lottery manager. A prize may not be paid
26 by the commission or this state except as otherwise authorized.

27 (b) Nothing in this subchapter limits the ability of a video

1 lottery retailer or video lottery manager to provide promotional
2 prizes, including wide area progressive networks, in addition to
3 prize payouts regulated by the commission.

4 (c) A video lottery ticket must be redeemed not later than
5 the 180th day following the date of issuance. If a claim is not made
6 for prize money on or before the 180th day after the date on which
7 the video lottery ticket was issued, the prize money becomes the
8 property of this state.

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

13 Sec. 466.597. REVOCATION OF LICENSE, REGISTRATION, OR OTHER
14 REGULATORY APPROVAL. (a) The commission shall revoke or suspend a
15 license, registration, or other regulatory approval issued under
16 this subchapter if the holder of the license, registration, or
17 approval at any time fails to meet the eligibility requirements set
18 forth in this subchapter.

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

27 Sec. 466.598. HEARING FOR REVOCATION OR SUSPENSION OF

1 REGISTRATION OR LICENSE. (a) Before the commission revokes or
2 suspends a video lottery terminal provider's registration or video
3 lottery retailer's or video lottery manager's license, or imposes
4 monetary penalties for a violation of this subchapter, the
5 commission shall provide written notification to the license or
6 registration holder of the revocation, the period of suspension, or
7 the monetary penalty. The notice shall include:

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

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

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

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

17 (5) a statement explaining the person's right to an
18 administrative hearing to determine whether the revocation,
19 suspension, or penalty is warranted.

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

23 (c) To obtain an administrative hearing on a suspension,
24 revocation, or penalty under this section, a person must submit a
25 written request for a hearing to the commission not later than the
26 20th day after the date notice is delivered personally or is mailed.

27 (d) If the commission receives a timely request under

1 Subsection (c), the commission shall provide the person with an
2 opportunity for a hearing as soon as practicable. If the commission
3 does not receive a timely request under Subsection (c), the
4 commission may impose the penalty, revoke or suspend a license or
5 registration, or sustain the revocation or suspension without a
6 hearing.

7 (e) Except as provided by Subsection (f) the hearing must be
8 held not earlier than the 11th day after the date the written
9 request is submitted to the commission.

10 (f) The commission may provide that a revocation or
11 suspension takes effect on receipt of notice under Subsection (a)
12 if the commission finds that the action is necessary to prevent or
13 remedy a threat to public health, safety, or welfare. The
14 commission by rule shall establish a nonexclusive list of
15 violations that present a threat to the public health, safety, or
16 welfare.

17 (g) A hearing on a revocation or suspension that takes
18 effect on receipt of notice must be held not later than the 14th day
19 after the date the commission receives the request for hearing
20 under this section. The revocation or suspension continues in
21 effect until the hearing is completed. If the hearing is continued,
22 the revocation or suspension shall continue in effect beyond the
23 14-day period at the request of the license or registration holder
24 or on a finding of good cause by the commission or administrative
25 law judge.

26 (h) To prevail in a post-deprivation administrative hearing
27 under this section, the license or registration holder must

1 demonstrate by clear and convincing evidence that the deprivation
2 or imposition of a penalty was unwarranted or otherwise unlawful.
3 The post-deprivation hearing may be conducted by the commission or
4 referred to the State Office of Administrative Hearings.

5 (i) The administrative record created by the hearing
6 conducted by the State Office of Administrative Hearings shall be
7 provided to the commission for review and determination on the
8 revocation or suspension.

9 (j) If an administrative law judge of the State Office of
10 Administrative Hearings conducts a hearing under this section and
11 the proposal for decision supports the commission's position, the
12 administrative law judge shall include in the proposal a finding of
13 the costs, fees, expenses, and reasonable and necessary attorney's
14 fees this state incurred in bringing the proceeding.

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

19 Sec. 466.599. JUDICIAL REVIEW OF REVOCATION, SUSPENSION, OR
20 PENALTY IMPOSITION. (a) A person aggrieved by a final decision of
21 the commission to revoke or suspend a registration or license or to
22 impose any monetary penalty may obtain judicial review before a
23 district court in Travis County.

24 (b) The judicial review must be instituted by serving on the
25 commission and filing a petition not later than the 20th day after
26 the effective date of the final decision and must identify the order
27 appealed from and the grounds or reason why the petitioner contends

1 the decision of the commission should be reversed or modified.

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

7 (d) If any court of competent jurisdiction concludes on
8 judicial review limited to the administrative record before the
9 commission and subject to the substantial evidence standard that
10 the deprivation or penalty was unwarranted or otherwise unlawful,
11 the sole remedy available is invalidation of the penalty or
12 reinstatement of the license or registration and the continued
13 distribution, manufacture, or operation of video lottery
14 terminals.

15 (e) The commission, this state, or the members, officers,
16 employees, and authorized agents of either are not under any
17 circumstances subject to monetary damages, attorney's fees, or
18 court costs resulting from the penalty or license or registration
19 revocation.

20 Sec. 466.600. LICENSE OR REGISTRATION: AGREEMENT TO WAIVE
21 ENFORCEABILITY. A license or registration holder by virtue of
22 accepting the license or registration agrees that the privilege of
23 holding a license or registration under this subchapter is
24 conditioned on the holder's agreement to Sections 466.597-466.599
25 and waives any right to challenge or otherwise appeal the
26 enforceability of those sections.

27 Sec. 466.601. LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO

1 LIABILITY OF STATE FOR ENFORCEMENT. (a) This state does not waive
2 its sovereign immunity by negotiating gaming agreements with Indian
3 tribes or other persons for the operation of video lottery
4 terminals or other lottery games under this chapter. An actor or
5 agent on behalf of this state does not have any authority to waive
6 the state's sovereign immunity absent an express legislative grant
7 of the authority. The only waiver of sovereign immunity relative to
8 video lottery terminal operations is that expressly provided for in
9 this section.

10 (b) With regard to video lottery terminal operations on
11 Indian lands, this state consents to the jurisdiction of the
12 District Court of the United States with jurisdiction in the county
13 where the Indian lands are located, or if the federal court lacks
14 jurisdiction, to the jurisdiction of a district court in Travis
15 County, solely for the purpose of resolving disputes arising from a
16 gaming agreement authorized under this subchapter for declaratory
17 or injunctive relief or contract damages of \$100,000 or more. Any
18 disputes relating to damages or other awards valued at less than
19 \$100,000 shall be arbitrated under the rules of the American
20 Arbitration Association, provided, however, that application of
21 the rules may not be construed as a waiver of sovereign immunity.

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

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

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

3 Sec. 466.602. ABSOLUTE PRIVILEGE OF REQUIRED
4 COMMUNICATIONS AND DOCUMENTS. (a) Any communication, document, or
5 record of a video lottery central system provider, video lottery
6 terminal provider, video lottery retailer, or video lottery
7 manager, an applicant, or a license or registration holder or
8 holder of a regulatory approval that is made or transmitted to the
9 commission or any of its employees to comply with any law, including
10 a rule of the commission, to comply with a subpoena issued by the
11 commission, or to assist the commission or its designee in the
12 performance of their respective duties is absolutely privileged,
13 does not impose liability for defamation, and is not a ground for
14 recovery in any civil action.

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

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

25 Sec. 466.603. INTELLECTUAL PROPERTY RIGHTS OF COMMISSION.
26 The legislature finds and declares that the commission has the
27 right to establish ownership of intellectual property rights for

1 all lottery products, including video lottery terminals and related
2 video lottery equipment.

3 Sec. 466.604. MODEL GAMING AGREEMENT. (a) The governor
4 shall execute, on behalf of this state, a gaming agreement with the
5 Ysleta del Sur Pueblo Indian tribe, the Alabama-Coushatta Indian
6 tribe, or the Kickapoo Traditional Tribe of Texas containing the
7 terms set forth in Subsection (b), as a ministerial act, without
8 preconditions, not later than the 30th day after the date the
9 governor receives a request from the tribe, accompanied by or in the
10 form of a duly enacted resolution of the tribe's governing body, to
11 enter into the gaming agreement.

12 (b) A gaming agreement executed under Subsection (a) must be
13 in the form and contain the provisions as follows:

14 GAMING AGREEMENT GOVERNING
15 VIDEO LOTTERY TERMINAL OPERATIONS
16 Between the [Name of Tribe]
17 and the STATE OF TEXAS

18 This agreement is made and entered into by and between the
19 [Name of Tribe], a federally recognized Indian Tribe ("Tribe"), and
20 the State of Texas ("State"), with respect to the operation of video
21 lottery terminals (as defined by Section 466.002, Texas Government
22 Code) on the Tribe's Indian lands (as defined by Chapter 466, Texas
23 Government Code).

24 SECTION 1.0. TITLE.

25 Sec. 1.1. This document shall be referred to as "The [Name
26 of Tribe] and State of Texas gaming agreement."

27 SECTION 2.0. PURPOSES AND OBJECTIVES.

1 Sec. 2.1. The terms of this agreement are designed and
2 intended to:

3 (a) evidence the good will and cooperation of the Tribe and
4 State in fostering a mutually respectful government-to-government
5 relationship that will serve the mutual interests of the parties;

6 (b) develop and implement a means of regulating limited
7 Class III gaming on the Tribe's Indian lands to ensure fair and
8 honest operation in accordance with the applicable federal and
9 state law, and, through that regulated limited Class III gaming,
10 enable the Tribe to develop self-sufficiency, promote tribal
11 economic development, and generate jobs and revenues to support the
12 Tribe's government and governmental services and programs; and

13 (c) ensure fair operation of video lottery games and
14 minimize the possibilities of corruption and infiltration by
15 criminal influences; promote ethical practices in conjunction with
16 that gaming, through the licensing and control of persons employed
17 in, or providing goods and services to, the Tribe's video lottery
18 operation and protecting against the presence or participation of
19 persons whose criminal backgrounds, reputations, character, or
20 associations make the persons unsuitable for participation in
21 gaming, thereby maintaining a high level of integrity in government
22 gaming.

23 SECTION 3.0. DEFINITIONS.

24 As used in this agreement, all terms have the meaning
25 assigned by Section 466.002, Texas Government Code, unless
26 otherwise specified:

27 Sec. 3.1. "Class III gaming" means the forms of Class III

1 gaming defined in 25 U.S.C. Section 2703(8) and by regulations of
2 the National Indian Gaming Commission.

3 Sec. 3.2. "Financial source" means any person providing
4 financing, directly or indirectly, to the Tribe's video lottery
5 terminal establishment or operation of video lottery terminals
6 authorized under this gaming agreement.

7 Sec. 3.3. "Gaming activities" means the limited Class III
8 gaming activities authorized under this gaming agreement.

9 Sec. 3.4. "Gaming employee" means any person who:

10 (a) operates, maintains, repairs, or assists in any gaming
11 activities, or is in any way responsible for supervising the gaming
12 activities or persons who conduct, operate, account for, or
13 supervise the gaming activities;

14 (b) is in a category under applicable federal or tribal
15 gaming law requiring licensing;

16 (c) is an employee of the Tribal Compliance Agency with
17 access to confidential information; or

18 (d) is a person whose employment duties require or authorize
19 access to areas of the video lottery terminal establishment that
20 are not open to the public.

21 Sec. 3.5. "Gaming ordinance" means a tribal ordinance or
22 resolution authorizing the conduct of Class III Gaming Activities
23 on the Tribe's Indian lands and approved under IGRA or other
24 applicable federal law.

25 Sec. 3.6. "IGRA" means the Indian Gaming Regulatory Act of
26 1988 (18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et seq.),
27 any amendments to the act, and all regulations promulgated under

1 the act.

2 Sec. 3.7. "Key employee" means any person employed by the
3 Tribe as chief operating or executive officer, chief financial
4 officer, chief of security, or manager of a video lottery terminal
5 establishment or operations of video lottery terminals, or any
6 other person who may directly influence the management of a video
7 lottery terminal establishment or the operation of video lottery
8 terminals.

9 Sec. 3.8. "NIGC" means the National Indian Gaming
10 Commission.

11 Sec. 3.9. "Patron" means any person who is on the premises
12 of a video lottery terminal establishment, for the purpose of
13 playing a video lottery game authorized by this gaming agreement.

14 Sec. 3.10. "Principal" means, with respect to any entity,
15 the entity's sole proprietor or any partner, trustee, beneficiary,
16 or shareholder holding 10 percent or more of the entity's
17 beneficial or controlling ownership, either directly or
18 indirectly, or more than 10 percent of the voting stock of a
19 publicly traded corporation, or any officer, director, principal
20 management employee, or key employee of the entity.

21 Sec. 3.11. "Restoration Act" means the Ysleta del Sur
22 Pueblo and Alabama and Coshatta Indian Tribes of Texas Restoration
23 Act (25 U.S.C. Section 731 et seq. and 25 U.S.C. Section 1300g et
24 seq.).

25 Sec. 3.12. "State" means the State of Texas or an authorized
26 official or agency of the state.

27 Sec. 3.13. "Texas Lottery Commission" means the commission

1 that regulates video lottery games in Texas under Chapter 466,
2 Texas Government Code, and includes any successor agency of the
3 state that regulates the games.

4 Sec. 3.14. "Transfer agreement" means a written agreement
5 authorizing the transfer of video lottery terminal operating rights
6 between the Tribe and another Indian tribe.

7 Sec. 3.15. "Transfer notice" means a written notice that
8 the Tribe must provide to the Texas Lottery Commission of the
9 Tribe's intent to acquire or transfer video lottery terminal
10 operating rights pursuant to a transfer agreement.

11 Sec. 3.16. "Tribal chairperson" means the person duly
12 elected or selected under the Tribe's organic documents, customs,
13 or traditions to serve as the primary spokesperson for the Tribe.

14 Sec. 3.17. "Tribal Compliance Agency" ("TCA") means the
15 Tribal governmental agency that has the authority to carry out the
16 Tribe's regulatory and oversight responsibilities under this
17 gaming agreement. Unless and until otherwise designated by the
18 Tribe, the TCA shall be the [Name of Tribe] Gaming Commission. A
19 gaming employee may not be a member or employee of the TCA. The
20 Tribe has the ultimate responsibility for ensuring that the TCA
21 fulfills its responsibilities under this gaming agreement. The
22 members of the TCA are subject to background investigations and
23 shall be licensed to the extent required by any applicable Tribal or
24 federal law and in accordance with this gaming agreement. The Tribe
25 shall ensure that all TCA officers and agents are qualified for the
26 position and receive ongoing training to obtain and maintain skills
27 sufficient to carry out their responsibilities in accordance with

1 industry standards.

2 Sec. 3.18. "Tribal law enforcement agency" means a police
3 or security force established and maintained by the Tribe under the
4 Tribe's powers of self-government to carry out law enforcement
5 duties at or in connection with a video lottery terminal
6 establishment.

7 Sec. 3.19. "Tribal gaming license" means any license issued
8 by the TCA as required by and in compliance with this agreement.

9 Sec. 3.20. "Tribe" means [Name of Tribe], a federally
10 recognized Indian tribe.

11 Sec. 3.21. "Video lottery terminal establishment" means any
12 premises at which the operation of video lottery terminals is
13 authorized under this gaming agreement.

14 SECTION 4.0. RECITALS.

15 Sec. 4.1. This agreement governs all operations of video
16 lottery terminals as defined by Section 466.002, Texas Government
17 Code, on the Tribe's Indian lands.

18 Sec. 4.2. A principal goal of Federal Indian policy is to
19 promote tribal economic development and tribal self-sufficiency.
20 The State and the Tribe find the goal to be consistent with
21 applicable federal law, state public policy, and the public health,
22 safety, and welfare to regulate video lottery terminals on Indian
23 lands in accordance with this gaming agreement.

24 Sec. 4.3. The Tribe is a federally recognized Indian tribe
25 possessing sovereign powers and rights of self-government. The
26 Tribe's governing body has authorized the officials of the Tribe to
27 enter into contracts and agreements of every description, including

1 this gaming agreement, with the State.

2 Sec. 4.4. The Tribe exercises governmental authority within
3 the [name of Reservation] (the "Reservation"), which for purposes
4 of this gaming agreement means those lands within the current
5 boundaries of the Reservation and any other Indian lands over which
6 the Tribe exercises governmental authority.

7 Sec. 4.5. The State of Texas is a state of the United States
8 of America possessing the sovereign powers and rights of a state.
9 The State has a legitimate sovereign interest in regulating the
10 growth of Class III gaming activities in Texas. Mindful of that
11 interest, the State of Texas, pursuant to Chapter 466, Texas
12 Government Code, authorized certain gaming agreements with Indian
13 tribal governments in the State of Texas to permit the operation of
14 video lottery terminals on Indian lands. It is the general policy
15 of the State to prohibit commercial gambling throughout the state.
16 The exceptions to this prohibition are limited under Texas law to
17 specified types of gaming and to limited locations that meet
18 specific criteria. Any gaming not expressly authorized is
19 prohibited.

20 Sec. 4.6. The parties recognize this agreement provides the
21 Tribe substantial benefits that create a unique opportunity for the
22 Tribe to operate video lottery terminals in an economic environment
23 of limited competition from gaming on non-Indian lands in Texas,
24 with the operation of video lottery games on non-Indian lands
25 restricted to licensed racetracks in existence in 2005 or
26 applicants who have applied to be licensed as a racetrack on or
27 before June 1, 2005. The parties are mindful that this unique

1 environment is of economic value to the Tribe. In consideration for
2 the substantial rights enjoyed by the Tribe, and in further
3 consideration for the State's willingness to enter into this gaming
4 agreement and allow the Tribe the opportunity to operate video
5 lottery terminals connected to the State's video lottery system,
6 the Tribe has agreed to provide to the State, on a
7 sovereign-to-sovereign basis, a portion of revenue generated by
8 video lottery terminals on Indian lands and to collect and remit to
9 the comptroller State sales and use taxes and State taxes on motor
10 fuels, alcoholic beverages, cigarettes and tobacco products, and
11 hotel occupancy. The requirement to collect and remit these State
12 taxes does not apply to taxes on the sale, use, or consumption of an
13 item by a member of the Tribe.

14 Sec. 4.7. The Tribe desires to offer the play of video
15 lottery terminals, as a means of generating revenue for the support
16 of tribal governmental programs, such as health care, housing,
17 sewer and water projects, police, corrections, fire, judicial
18 services, highway and bridge construction, general assistance for
19 tribal elders, day care for the children, economic development,
20 educational opportunities, and other typical and valuable
21 governmental services and programs for tribal members.

22 Sec. 4.8. The State recognizes that the positive effects of
23 this gaming agreement may extend beyond the Tribe's lands to the
24 Tribe's neighbors and surrounding communities and will generally
25 benefit all of Texas. These positive effects and benefits may
26 include not only those described in Section 4.7, but also may
27 include increased tourism and related economic development

1 activities that, through the Tribe's revenue sharing with the
2 State, will generate additional funds for state governmental
3 programs.

4 Sec. 4.9. The Tribe and the State jointly wish to protect
5 their citizens from any criminal involvement in the gaming
6 operations regulated under this gaming agreement.

7 Sec. 4.10. Nothing in this agreement shall supplant the
8 role or duties of the Texas Department of Public Safety under state
9 law. The Texas Racing Commission and the Texas Comptroller of
10 Public Accounts do not have any role in regulation or oversight of
11 gaming activities conducted by a Tribe.

12 Sec. 4.11. The terms of this gaming agreement strictly
13 define and limit the relationship of the parties. Nothing in this
14 gaming agreement shall be construed to create or imply a joint
15 venture, partnership, principal/agent, or any other relationship
16 between the parties.

17 SECTION 5.0. CLASS III GAMING AUTHORIZED AND PERMITTED.

18 Sec. 5.1. The Tribe is hereby authorized and permitted to
19 engage only in the Class III gaming activities expressly referred
20 to in Section 6.0 and may not engage in Class III gaming that is not
21 expressly authorized in that section. Nothing in this agreement
22 shall be construed to allow Internet gaming.

23 SECTION 6.0. AUTHORIZATION OF VIDEO LOTTERY TERMINALS.

24 Sec. 6.1. Authorized and Permitted Class III Gaming. The
25 Tribe is hereby authorized and permitted to operate the following
26 Class III gaming under the terms and conditions set forth in this
27 agreement.

1 Sec. 6.2. The Tribe and State agree that the Tribe is
2 authorized to operate video lottery terminals only in accordance
3 with this gaming agreement. However, nothing in this agreement
4 limits any right of the Kickapoo Traditional Tribe of Texas to
5 operate any game that is a Class II game under IGRA, and Class II
6 games are not subject to the exclusivity payments required under
7 this gaming agreement.

8 Sec. 6.2.1. Operation of Video Lottery Terminals. Video
9 lottery terminals must be operated in connection with the video
10 lottery system and at all times be connected through communication
11 technology or other video lottery equipment controlled by the State
12 to a State controlled and operated video lottery central system.
13 The Tribe may enter into a management gaming agreement for a third
14 party video lottery manager, or the Tribe may act as its own video
15 lottery manager.

16 (a) Third Party Video Lottery Manager. If the Tribe enters
17 into a management gaming agreement for a third party video lottery
18 manager, the manager must be licensed by the Texas Lottery
19 Commission under Subchapter K, Chapter 466, Texas Government Code,
20 and all video lottery operations shall be subject to and in strict
21 compliance with that Subchapter. Any video lottery manager
22 conducting business on Indian lands shall indemnify and hold
23 harmless the State and the commission and all officers and
24 employees of both from any and all claims which may be asserted
25 against a license holder, the commission, the State, and the
26 members, officers, employees, and authorized agents of either,
27 arising from the license holder's participation in the video

1 lottery system authorized under the gaming agreement.

2 (b) Tribe as Video Lottery Manager. If the Tribe elects to
3 manage video lottery terminal operations, then Sections 7.0 through
4 14.0 of this agreement govern the procurement and operation of the
5 video lottery terminals on the Indian lands of the Tribe.

6 Sec. 6.3. In order to remain eligible to operate video
7 lottery terminals under this gaming agreement, the Tribe must
8 strictly comply with all requirements of the gaming agreement,
9 timely file all reports required by this gaming agreement, and
10 timely remit all payments to the State required under this gaming
11 agreement or applicable state law, including the taxes collected as
12 provided by Section 4.6.

13 Sec. 6.4. Regardless of ownership of video lottery
14 terminals, the State owns all video lottery games.

15 SECTION 7.0. PROCUREMENT OF VIDEO LOTTERY TERMINALS.

16 Sec. 7.1. All video lottery terminals shall be procured
17 only from a video lottery terminal provider registered with the
18 Texas Lottery Commission under Subchapter K, Chapter 466, Texas
19 Government Code. The Tribe may not enter into, or continue to make
20 payments pursuant to, any contract or agreement for the provision
21 of video lottery equipment with any person who is not registered by
22 the commission as a video lottery terminal provider under
23 Subchapter K, Chapter 466, Texas Government Code. Any agreement
24 between the Tribe and a video lottery terminal provider shall be
25 deemed to include a provision for the agreement's termination
26 without further liability on the part of the Tribe, except for the
27 bona fide repayment of all outstanding sums, exclusive of interest,

1 owed as of, or payment for services or materials received up to, the
2 date of termination, on revocation or non-renewal of the video
3 lottery terminal provider's registration.

4 Sec. 7.2. The Texas Lottery Commission shall provide the
5 Tribe a list of registered video lottery terminal providers,
6 commission approved video lottery games, and commission approved
7 video lottery terminals. The Tribe may not operate a video lottery
8 terminal that has not been authorized by the commission.

9 Sec. 7.3. The Tribe shall file with the Texas Lottery
10 Commission any order placed for video lottery terminals
11 simultaneously with the submission of the order to a
12 commission-approved video lottery terminal provider.

13 Sec. 7.4. The Tribe or the video lottery manager shall
14 provide all necessary capital investments and required
15 improvements at a video lottery terminal establishment.

16 SECTION 8.0. LICENSING.

17 Sec. 8.1. Gaming Ordinance and Regulations. All video
18 lottery operations conducted under this agreement, at a minimum,
19 shall comply with all terms and conditions of this gaming
20 agreement, a Gaming Ordinance adopted by the Tribe and approved in
21 accordance with this agreement and any applicable federal law, and
22 with all rules, regulations, procedures, specifications, and
23 standards adopted by the TCA. All licensing related to the
24 operation of video lottery terminals shall be conditioned on an
25 agreement by the license holder to indemnify and hold harmless the
26 State and the Texas Lottery Commission and all officers and
27 employees of both from any and all claims which may be asserted

1 against a license holder, the commission, the State and the
2 members, officers, employees, and authorized agents of either
3 arising from the license or registration holder's participation in
4 the video lottery system authorized under this agreement.

5 Sec. 8.2. Tribal Ownership and Regulation of Gaming
6 Operation. Except as otherwise provided by this agreement, the
7 Tribe shall have the sole proprietary interest in the video lottery
8 terminal establishment and video lottery terminals. This provision
9 may not be construed to prevent the Tribe from granting security
10 interests or other financial accommodations to secured parties,
11 lenders or others, or to prevent the Tribe from entering into leases
12 or financing agreements or a gaming management agreement with a
13 video lottery manager.

14 Sec. 8.3. Government-to-Government Cooperation. The
15 parties intend that the licensing process provided for in this
16 gaming agreement shall involve joint cooperation between the TCA
17 and the Texas Lottery Commission, as described in this agreement.

18 Sec. 8.4. Video Lottery Terminal Establishment. (a) A
19 video lottery terminal establishment authorized by this agreement
20 shall be operated by a licensed video lottery manager or the Tribe
21 and licensed by the TCA in conformity with the requirements of this
22 gaming agreement, the Tribal Gaming Ordinance, and any applicable
23 federal law. The license shall be reviewed and renewed, if
24 appropriate, every two years. The Tribe shall promptly certify in
25 writing to the Texas Lottery Commission each time the license is
26 renewed. The certification must be posted in a conspicuous and
27 public place in the video lottery terminal establishment at all

1 times.

2 (b) In order to protect the health and safety of all video
3 lottery terminal establishment patrons, guests, and employees, all
4 video lottery terminal establishments of the Tribe constructed
5 after the effective date of this gaming agreement, and all
6 expansions or modifications to a site facility for a video lottery
7 terminal establishment in existence as of the effective date of
8 this gaming agreement, shall meet or exceed the building and safety
9 codes of the Tribe. As a condition for engaging in that
10 construction, expansion, modification, or renovation, the Tribe
11 shall amend the Tribe's existing building and safety codes if
12 necessary, or enact such codes if there are none, so that the codes
13 meet the standards of the building and safety codes of any county in
14 which the video lottery terminal establishment is located,
15 including all uniform fire, plumbing, electrical, mechanical, and
16 related codes in effect on the date this agreement takes effect.
17 Nothing in this agreement shall be deemed to confer jurisdiction on
18 any county or the State with respect to any reference to such
19 building and safety codes. Any construction, expansion, or
20 modification must also comply with the federal Americans with
21 Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as amended.

22 (c) The TCA shall issue a video lottery terminal
23 establishment a certificate of occupancy prior to occupancy if it
24 was not used for any lawful gaming prior to the effective date of
25 this gaming agreement, or, if it was so used, within one year after
26 the effective date. The certificate shall be reviewed for
27 continuing compliance once every two years. Inspections by

1 qualified building and safety experts shall be conducted under the
2 direction of the TCA as the basis for issuing any certificate
3 hereunder. The TCA shall determine and certify that, as to new
4 construction or new use for gaming activities, the video lottery
5 terminal establishment meets the Tribe's building and safety code,
6 or, as to facilities or portions of facilities that were used for
7 the Tribe's gaming before this gaming agreement, that the video
8 lottery terminal establishment or portions of the establishment do
9 not endanger the health or safety of occupants or the integrity of
10 the video lottery system. The Tribe may not offer video lottery
11 gaming in a video lottery terminal establishment that is
12 constructed or maintained in a manner that endangers the health or
13 safety of occupants or the integrity of the video lottery system.

14 (d) The State shall designate an agent or agents to be given
15 reasonable notice of each inspection by the TCA's experts, and
16 State agents may participate in any such inspection. The Tribe
17 agrees to correct any video lottery terminal establishment
18 condition noted in an inspection that does not meet the standards
19 set forth in Subsections (b) and (c). The TCA and the State's
20 designated agent or agents shall exchange any reports of an
21 inspection within 10 days after completion of the report, and the
22 reports shall be separately and simultaneously forwarded by both
23 agencies to the Tribal chairperson. On certification by the TCA's
24 experts that a video lottery terminal establishment meets
25 applicable standards, the TCA shall forward the experts'
26 certification to the State within 10 days of issuance. If the
27 State's agent objects to that certification, the Tribe shall make a

1 good faith effort to address the State's concerns, but if the State
2 does not withdraw its objection, the matter will be resolved in
3 accordance with the dispute resolution provisions of this gaming
4 agreement.

5 Sec. 8.5. Suitability Standard Regarding Tribal Gaming
6 Licenses. In reviewing an application for a tribal gaming license,
7 and in addition to any standards set forth in the Tribal gaming
8 ordinance, the TCA shall consider whether issuance of the license
9 is inimical to public health, safety, or welfare, and whether
10 issuance of the license will undermine public trust that the
11 Tribe's operation of video lottery terminals, or tribal government
12 gaming generally, is free from criminal and dishonest elements and
13 would be conducted honestly. A license may not be issued unless,
14 based on all information and documents submitted, the TCA is
15 satisfied that the applicant, in addition to any other criteria in
16 any applicable federal law is all of the following:

17 (a) a person of good character, honesty, and integrity;

18 (b) a person whose prior activities, criminal record (if
19 any), reputation, habits, and associations do not pose a threat to
20 the security and integrity of the lottery or to the public interest
21 of the State or to the effective operation and control of the
22 lottery, or create or enhance the dangers of unsuitable, unfair, or
23 illegal practices, methods, or activities in the conduct of the
24 lottery, or in the carrying on of the business and financial
25 arrangements incidental to the conduct of the lottery; and

26 (c) a person who in all other respects is qualified to be
27 licensed as provided in this gaming agreement, any applicable

1 federal law, the Tribal Gaming Ordinance, and any other criteria
2 adopted by the TCA or the Tribe. An applicant may not be found
3 unsuitable solely on the ground that the applicant was an employee
4 of a tribal gaming operation in Texas that was conducted before the
5 effective date of this gaming agreement. Employment in an
6 unauthorized gaming operation in Texas subsequent to the effective
7 date of this agreement, however, shall impose a presumption of
8 unsuitability.

9 Sec. 8.6. Gaming Employees. (a) Every gaming employee
10 shall obtain, and thereafter maintain current, a valid tribal
11 gaming license, which shall be subject to biennial renewal,
12 provided that in accordance with Section 8.8.2, a person may be
13 employed on a temporary or conditional basis pending completion of
14 the licensing process.

15 (b) Without the concurrence of the Texas Lottery
16 Commission, the Tribe may not employ or continue to employ any
17 person whose application to the commission for a registration,
18 license, determination of suitability, or other regulatory
19 approval, or for a renewal of a registration, license,
20 determination of suitability, or other regulatory approval, has
21 been denied or has expired without renewal.

22 Sec. 8.7. Financial Sources. Any person providing
23 financing, directly or indirectly, to the Tribe's video lottery
24 terminal establishment or operation of video lottery terminals must
25 be licensed by the TCA before receipt of that financing, provided
26 that any person who is providing financing at the time of the
27 execution of this gaming agreement must be licensed by the TCA

1 within ninety (90) days of such execution. The TCA shall review
2 licenses at least every two years for continuing compliance. In
3 connection with the review, the TCA shall require the Financial
4 Source to update all information provided in the previous
5 application. Any agreement between the Tribe and a Financial
6 Source is deemed to include a provision for its termination without
7 further liability on the part of the Tribe, except for the bona fide
8 repayment of all outstanding sums, exclusive of interest, owed as
9 of the date of termination, on revocation or non-renewal of the
10 Financial Source's license by the TCA based on a determination of
11 unsuitability by the Texas Lottery Commission. The Tribe may not
12 enter into, or continue to make payments pursuant to any contract or
13 agreement for the provision of financing with any person whose
14 application to the commission for a determination of suitability
15 has been denied or has expired without renewal. A video lottery
16 terminal provider who provides financing exclusively in connection
17 with the sale or lease of video lottery equipment obtained from that
18 video lottery terminal provider may be registered solely in
19 accordance with the commission's registration procedures for video
20 lottery terminal providers. The TCA may, in its discretion,
21 exclude from the licensing requirements of this section, financing
22 provided by:

23 (1) a federally regulated or state-regulated bank,
24 savings and loan, or other federally regulated or state-regulated
25 lending institution;

26 (2) any agency of the federal, state, or local
27 government; or

1 (3) any investor who, alone or in conjunction with
2 others, holds less than 10 percent of any outstanding indebtedness
3 evidenced by bonds issued by the Tribe.

4 Sec. 8.8. Processing License Applications. Each applicant
5 for a tribal gaming license shall submit the completed application
6 on forms prescribed by the TCA and approved by the Texas Lottery
7 Commission, along with the required information and an application
8 fee, to the TCA in accordance with the rules and regulations of that
9 agency. The parties agree that for purposes of this agreement, the
10 standards set forth under federal law with regard to information
11 required for Tribal gaming operation applications shall govern.
12 Accordingly, at a minimum, the TCA shall require submission and
13 consideration of all information required under federal law,
14 including 25 C.F.R. Section 556.4, for licensing primary management
15 officials and key employees. For applicants who are business
16 entities, the licensing provisions apply to the entity and:

17 (a) each officer and director;

18 (b) each principal management employee, including any chief
19 executive officer, chief financial officer, chief operating
20 officer, and general manager;

21 (c) each owner or partner, if an unincorporated business;

22 (d) each shareholder who owns more than 10 percent of the
23 shares of the corporation, if a corporation; and

24 (e) each person or entity, other than a financial
25 institution the TCA has determined does not require a license under
26 the preceding section, that, alone or in combination with others,
27 has provided financing in connection with any video lottery

1 equipment or video lottery terminal establishment under this gaming
2 agreement, if that person or entity provided more than five percent
3 of:

4 (1) the start-up capital;

5 (2) the operating capital over a 12-month period; or

6 (3) a combination thereof.

7 For purposes of this section, if any commonality of the
8 characteristics identified in Subsections (a) to (e), inclusive,
9 exist between any two or more entities, the entities may be deemed
10 to be a single entity. Nothing herein precludes the Tribe or TCA
11 from requiring more stringent licensing requirements.

12 Sec. 8.8.1. Background Investigations of Applicants. (a)
13 The TCA shall conduct or cause to be conducted all necessary
14 background investigations reasonably required to determine that
15 the applicant is qualified for a tribal gaming license under the
16 standards set forth in this gaming agreement, and to fulfill all
17 requirements for licensing under any applicable federal law, the
18 Tribal Gaming Ordinance, and this gaming agreement. The TCA may not
19 issue any license other than a temporary license until a
20 determination is made that the qualifications have been met.

21 (b) Instead of completing its own background investigation,
22 and to the extent that doing so does not conflict with or violate
23 any applicable federal law or the Tribal Gaming Ordinance, the TCA
24 may contract with the Texas Lottery Commission or an independent
25 contractor approved by the commission for the conduct of background
26 investigations. An applicant for a tribal gaming license must
27 provide releases to the commission to make available to the TCA

1 background information regarding the applicant. The commission
2 shall cooperate in furnishing to the TCA that information, unless
3 doing so would violate any agreement the commission has with a
4 source of the information other than the applicant, or would impair
5 or impede a criminal investigation, or unless the TCA cannot
6 provide sufficient safeguards to assure the commission that the
7 information will remain confidential.

8 Sec. 8.8.2. Temporary Licensing of Employees.

9 Notwithstanding any contrary provision in this gaming agreement,
10 the TCA may issue a temporary license and may impose specific
11 conditions on the license pending completion of the applicant's
12 background investigation as the TCA in its sole discretion shall
13 determine, if:

14 (a) the applicant for a tribal gaming license has completed
15 a license application in a manner satisfactory to the TCA; and

16 (b) the TCA has conducted a preliminary background
17 investigation, and the investigation or other information held by
18 the TCA does not indicate:

19 (1) that the applicant has a criminal history that
20 could pose a threat to the security and integrity of the lottery or
21 to the public interest of the State or the effective operation and
22 control of the lottery, or create or enhance the dangers of
23 unsuitable, unfair, or illegal practices, methods, or activities in
24 the conduct of the lottery, or in the carrying on of the business
25 and financial arrangements incidental thereto;

26 (2) other information in the applicant's background
27 that would either disqualify the applicant from obtaining a license

1 or cause a reasonable person to investigate further before issuing
2 a license; or

3 (3) that the applicant is otherwise unsuitable for
4 licensing.

5 (c) The TCA may require special fees to issue or maintain a
6 temporary license.

7 (d) A temporary license shall remain in effect until
8 suspended or revoked, or until a final determination is made on the
9 application. At any time after issuance of a temporary license, the
10 TCA may suspend or revoke the temporary license in accordance with
11 Sections 8.9.1 or 8.9.5, and the Texas Lottery Commission may
12 request suspension or revocation in accordance with Section 8.9.

13 (e) For purposes of this agreement, the parties agree that
14 the standards set forth in 25 C.F.R. Part 558 govern licensing and
15 investigations required under the provisions of this agreement.
16 Nothing in this agreement shall be construed to relieve the Tribe of
17 any obligation under this agreement to comply with the standards
18 set forth in 25 C.F.R. Part 558.

19 Sec. 8.9. Tribal Gaming License Issuance. (a) On
20 completion of the necessary background investigation, the TCA may
21 issue a tribal gaming license on a conditional or unconditional
22 basis. Nothing herein shall create a property or other right of an
23 applicant in an opportunity to be licensed, or in a license itself,
24 both of which shall be considered to be privileges granted to the
25 applicant in the sole discretion of the TCA subject to oversight by
26 the Texas Lottery Commission as provided herein. Any license,
27 registration, suitability, qualification issued, or other

1 regulatory approval granted pursuant to or in compliance with this
2 gaming agreement is a revocable privilege, and a holder does not
3 acquire any vested right therein or thereunder.

4 (b) State and Tribal courts shall have no jurisdiction to
5 review decisions to deny, limit, or condition a license,
6 registration, suitability, qualification, or request for approval
7 unless the judicial review is sought on the ground that such a
8 denial, limitation, or condition is proven by clear and convincing
9 evidence to be based on a suspect classification such as race,
10 color, religion, gender, or national origin, protected under the
11 Equal Protection Clause of the United States Constitution.

12 Sec. 8.9.1. Denial, Suspension, or Revocation of Licenses.

13 (a) The TCA may deny any application for a tribal gaming license
14 and may revoke any license issued if the TCA determines the
15 application is incomplete or deficient or if the applicant is
16 determined to be unsuitable or otherwise unqualified for the gaming
17 license. Pending consideration of revocation, the TCA may
18 summarily suspend a license in accordance with Section 8.9.5. All
19 rights to notice and hearing shall be governed by tribal law. The
20 TCA shall notify the applicant in writing of the tribal law
21 provisions and of the intent to suspend or revoke the license.

22 (b) On receipt of notice that the Texas Lottery Commission
23 has determined a person would be unsuitable for licensure in a video
24 lottery terminal establishment or related to video lottery terminal
25 operations subject to the jurisdiction of the commission, the TCA
26 shall promptly revoke any license issued to the person.

27 Sec. 8.9.2. Renewal of Licenses; Extensions; Further

1 Investigation. The term of a tribal gaming license may not exceed
2 five years, and application for renewal of a license must be made
3 before the license's expiration. An applicant for renewal of a
4 license must provide updated material as requested, on the
5 appropriate renewal forms, but, at the discretion of the TCA, may
6 not be required to resubmit historical data previously submitted or
7 that is otherwise available to the TCA. At the discretion of the
8 TCA, an additional background investigation may be required at any
9 time if the TCA determines the need for further information
10 concerning the applicant's continuing suitability or eligibility
11 for a license. Before renewing a license, the TCA shall deliver to
12 the Texas Lottery Commission copies of all information and
13 documents received in connection with the application for renewal.

14 Sec. 8.9.3. Identification Cards. The TCA shall require
15 all persons who are required to be licensed to wear, in plain view
16 at all times while in the video lottery terminal establishment,
17 identification badges issued by the TCA. Identification badges
18 must include a photograph and an identification number that is
19 adequate to enable TCA agents to readily identify the person and
20 determine the validity and date of expiration of the license.

21 Sec. 8.9.4. Fees for Tribal Gaming License. The fees for
22 all tribal gaming licenses shall be set by the TCA.

23 Sec. 8.9.5. Summary Suspension of Tribal Gaming License.
24 The TCA may summarily suspend a tribal gaming license if the TCA
25 determines that the continued licensing of the person or entity
26 could constitute a threat to the public health or safety or may
27 violate the TCA's licensing or other standards or any provision of

1 applicable federal or state law or of this agreement. Any right to
2 notice or hearing in regard to the suspension are governed by tribal
3 law provided the law is not inconsistent with any provision of this
4 agreement.

5 Sec. 8.9.6. State Certification Process. (a) On receipt of
6 a completed tribal gaming license application and a determination
7 by the TCA that it intends to issue the earlier of a temporary or
8 permanent license, the TCA shall transmit to the Texas Lottery
9 Commission a notice of intent to license the applicant, together
10 with all of the following:

11 (i) a copy of all tribal license application materials
12 and information received by the TCA from the applicant;

13 (ii) an original set of fingerprint cards;

14 (iii) a current photograph; and

15 (iv) except to the extent waived by the commission,
16 the releases of information, waivers, and other completed and
17 executed forms obtained by the TCA.

18 (b) Except for an applicant for licensing as a non-key
19 gaming employee, the TCA shall require the applicant to file an
20 application with the Texas Lottery Commission, before issuance of a
21 temporary or permanent tribal gaming license, for a determination
22 of suitability for licensure under Subchapter K, Chapter 466, Texas
23 Government Code. Investigation and disposition of that application
24 is governed entirely by State law, and the commission shall
25 determine whether the applicant would be found suitable for
26 licensure in a video lottery terminal establishment or in relation
27 to video lottery terminal operations at a video lottery terminal

1 establishment subject to the commission's jurisdiction.
2 Additional information may be required by the commission to assist
3 in a background investigation, provided that the commission
4 requirement is no greater than that which may be required of
5 applicants for a video lottery retailer license in connection with
6 video lottery operations at a video lottery terminal establishment
7 under Subchapter K, Chapter 466, Texas Government Code. A
8 determination of suitability is valid for the term of the tribal
9 license held by the applicant, and the TCA shall require a license
10 holder to apply for renewal of a determination of suitability at the
11 time the license holder applies for renewal of a tribal gaming
12 license. The commission and the TCA, together with tribal gaming
13 agencies under other gaming agreements, shall cooperate in
14 developing standard licensing forms for tribal gaming license
15 applicants, on a statewide basis, that reduce or eliminate
16 duplicative or excessive paperwork, and the forms and procedures
17 must take into account the Tribe's requirements under any
18 applicable federal law and the expense thereof.

19 (c) Background Investigations of Applicants. On receipt of
20 completed license application information from the TCA, the Texas
21 Lottery Commission may conduct a background investigation pursuant
22 to state law to determine whether the applicant would be suitable to
23 be licensed for association with a video lottery terminal
24 establishment or operation subject to the jurisdiction of the
25 commission. If further investigation is required to supplement the
26 investigation conducted by the TCA, the applicant will be required
27 to pay an application fee charged by the commission in an amount

1 that reimburses the commission for actual costs incurred, provided
2 that in requesting any deposit, the commission shall take into
3 consideration reports of the background investigation already
4 conducted by the TCA and the NIGC, if any. Failure to pay the
5 application fee or deposit may be grounds for denial of the
6 application by the commission. The commission and TCA shall
7 cooperate in sharing as much background information as possible to
8 maximize investigative efficiency and thoroughness and to minimize
9 investigative costs. On completion of the necessary background
10 investigation or other verification of suitability, the commission
11 shall issue a notice to the TCA certifying the State has determined
12 that the applicant would be suitable or that the applicant would be
13 unsuitable for licensure in a video lottery terminal establishment
14 subject to the jurisdiction of the commission and, if unsuitable,
15 stating the reasons for unsuitability.

16 (d) The Tribe, on a monthly basis, shall provide the Texas
17 Lottery Commission with the name, badge identification number, and
18 job descriptions of all non-key gaming employees.

19 (e) The Tribe shall, at all times, have a list of key
20 employees on file with the Texas Lottery Commission and shall
21 advise the commission of any change to the list not later than the
22 10th day following the date of the change.

23 (f) Before denying an application for a determination of
24 suitability, the Texas Lottery Commission shall notify the TCA and
25 afford the Tribe an opportunity to be heard. The courts of the
26 State and the Tribe shall have no jurisdiction to review decisions
27 to deny, limit, or condition a license, registration, suitability,

1 qualification, or request for approval unless the denial,
2 limitation, or condition is proven by clear and convincing evidence
3 to be based on a suspect classification such as race, color,
4 religion, sex, or national origin, protected under the Equal
5 Protection Clause of the United States Constitution. Under these
6 circumstances, any requirement for tribal court exhaustion is
7 hereby waived by the Tribe.

8 Sec. 8.9.7. State Assessment for Costs of Oversight. (a)
9 The State shall make annually an assessment sufficient to
10 compensate the State for actual costs of oversight of the operation
11 of video lottery terminals pursuant to this gaming agreement.

12 (b) On or before August 1, annually, beginning with the
13 first such date following the implementation of video lottery
14 operations under this gaming agreement, the State shall render to
15 the TCA a statement of the total cost of oversight and any law
16 enforcement for the preceding fiscal year ending July 31 together
17 with proposed assessments for the forthcoming fiscal year based on
18 the preceding fiscal year cost. In the first year of the effective
19 date of this gaming agreement, however, the assessment must be
20 prospective and based on a pro rata allocation of costs if this
21 gaming agreement becomes operative in the course of a fiscal year
22 and must be established following consultation with the TCA. On
23 September 1, annually, the State, after receiving any objections to
24 the proposed assessments and making such changes or adjustments as
25 may be indicated, shall provide a written notice that assesses the
26 Tribe for the costs of the oversight and any necessary law
27 enforcement. Annually, the Tribe shall pay one-third of the

1 assessment within 20 days of the receipt of the written notice and
2 shall pay the remaining two-thirds of the assessment in two equal
3 payments on January 1 and April 1. The payments must be deposited
4 with the Texas Lottery Commission in a video lottery account
5 established solely for funds related to video lottery terminals
6 operated by the Tribe.

7 (c) In the event that the total assessment paid by the Tribe
8 during any fiscal year of the State exceeds the actual costs of the
9 oversight and any necessary law enforcement during that fiscal
10 year, the State shall adjust the assessment for the succeeding
11 fiscal year in the amount necessary to offset such excess
12 assessment. If the Tribe is aggrieved because of any failure by the
13 State to make such an adjustment, any claim for such an adjustment
14 must be presented in the appeal of the assessment as provided in
15 Section 8.9.8.

16 Sec. 8.9.8. Procedure for Appeal of Assessments or Payments
17 Made to the State. If the Tribe is aggrieved because of any
18 assessment levied or payment made to the State as required by this
19 gaming agreement, the Tribe, not later than the 30th day following
20 the date provided for the payment, may appeal an assessment or
21 payment to the Texas Lottery Commission. If the Tribe is aggrieved
22 by the commission's decision, it may invoke the dispute resolution
23 provisions of this agreement provided that the Tribe must prove by
24 clear and convincing evidence that any collection or assessment of
25 payment to the State was inappropriate.

26 Sec. 8.9.9. Collection and Distribution of Revenue. (a)
27 The Tribe shall establish separate electronic funds transfer

1 accounts for the purposes of depositing money from video lottery
2 terminal operations, making payments to the Texas Lottery
3 Commission, and receiving payments from the commission.

4 (b) The State's share of net terminal income of the Tribe's
5 video lottery terminal operations shall be transferred to the Texas
6 Lottery Commission through the electronic transfer of funds daily
7 by the commission. The commission shall establish the procedures
8 for depositing money from video lottery terminal operations into
9 electronic funds transfer accounts and the procedures for the
10 handling of money from video lottery terminal operations. The
11 State's share of net terminal income from video lottery terminal
12 operations shall be held in trust for the State.

13 (c) Unless directed otherwise by the Texas Lottery
14 Commission, the Tribe shall maintain in its account the State's
15 share of the net terminal income from the operation of video lottery
16 terminals, to be electronically transferred by the commission. On
17 the Tribe's failure to maintain this balance, the commission may
18 disable all of the Tribe's video lottery terminals until full
19 payment of all amounts due is made. Interest shall accrue on any
20 unpaid balance at a rate consistent with the amount charged under
21 Section 111.060, Texas Tax Code. The interest shall begin to accrue
22 on the date payment is due to the commission. In the commission's
23 sole discretion, rather than disable the Tribe's video lottery
24 terminals, the commission may elect to impose contract penalties in
25 an amount to be determined by the commission not to exceed \$250,000
26 for each violation. If the Tribe fails to remedy the violation,
27 including payment of any amounts due to the State, within 10 days,

1 the commission may disable the Tribe's video lottery terminals or
2 use any other means for collection agreed to by the Tribe instead of
3 disabling the Tribe's video lottery terminals.

4 (d) The Tribe is solely responsible for resolving any income
5 discrepancies between actual money collected and the net terminal
6 income reported by the video lottery central system. Unless an
7 accounting discrepancy is resolved in favor of the Tribe, the Texas
8 Lottery Commission may not make any credit adjustments. Any
9 accounting discrepancies which cannot be resolved shall be resolved
10 in favor of the commission.

11 (e) Tribes shall remit payment as directed by the Texas
12 Lottery Commission if the electronic transfer of funds is not
13 operational or the commission notifies the Tribe that remittance by
14 this method is required. The Tribe shall report the State's share
15 of net terminal income, and remit the amount as generated from its
16 terminals during the reporting period.

17 (f) The Tribe agrees to furnish to the Texas Lottery
18 Commission all information and bank authorizations required to
19 facilitate the timely transfer of money to the commission. The
20 Tribe agrees to provide the commission 30 days' advance notice of
21 any proposed account changes in order to assure the uninterrupted
22 electronic transfer of funds. However, in no event shall the
23 commission be responsible for any interruption or delays in
24 transferring of funds. Rather, the Tribe shall be responsible for
25 any interruption or delay in transferring of funds.

26 SECTION 9.0. RULES AND REGULATIONS; MINIMUM REQUIREMENTS
27 FOR OPERATIONS.

1 Sec. 9.1. Regulations. The Tribe shall promulgate any
2 rules and regulations necessary to implement this gaming agreement,
3 which at a minimum shall expressly include or incorporate by
4 reference all requirements of this gaming agreement. Nothing in
5 this gaming agreement shall be construed to affect the Tribe's
6 right to amend its rules and regulations, provided that any such
7 amendment shall be in conformity with this gaming agreement. The
8 Texas Lottery Commission may propose additional rules and
9 regulations related to implementation of this gaming agreement to
10 the TCA at any time, and the TCA shall give good faith consideration
11 to such suggestions and shall notify the commission of its response
12 or action with respect thereto.

13 Sec. 9.2. Compliance; Internal Control Standards. All
14 video lottery operations shall comply with, and all video lottery
15 games approved under the procedures set forth in this gaming
16 agreement shall be operated in accordance with the requirements set
17 forth in this gaming agreement and applicable state law. The
18 parties agree that for purposes of this agreement, the standards
19 set forth in 25 C.F.R. Part 542 shall govern minimum requirements
20 for tribal internal control standards. Accordingly, the Tribe
21 agrees that all tribal video lottery operations shall comply with
22 tribal internal control standards that provide a level of control
23 equal to or exceeding that provided by the standards set forth in 25
24 C.F.R. Part 542.

25 Sec. 9.3. Records. (a) In addition to other records
26 required to be maintained herein, the Tribe shall maintain in
27 permanent written or electronic form the following records related

1 to implementation of this gaming agreement:

2 (1) a log recording all surveillance activities of the
3 video lottery terminal establishment, including surveillance
4 records kept in the normal course of operations and in accordance
5 with industry standards; provided, notwithstanding anything to the
6 contrary herein, surveillance records may, at the discretion of the
7 Tribe, be destroyed if no incident has been reported within one (1)
8 year following the date the records were made;

9 (2) payout from the conduct of all video lottery
10 games;

11 (3) maintenance logs for all video lottery gaming
12 equipment used by the video lottery terminal establishment;

13 (4) security logs as kept in the normal course of
14 conducting and maintaining security at the video lottery terminal
15 establishment, which at a minimum must conform to industry
16 practices for such reports;

17 (5) books and records on video lottery terminals, as
18 described more particularly in Section 9.4, which shall be
19 maintained in accordance with generally accepted accounting
20 principles (GAAP) and the standards set forth in Section 9.4; and

21 (6) all documents generated in accordance with this
22 gaming agreement.

23 (b) The Tribe shall make the records maintained under
24 Subsection (a) of this section available for inspection by the
25 Texas Lottery Commission for not less than four years from the date
26 the records are generated.

27 (c) The security logs required under Subsection (a) of this

1 section must document any unusual or nonstandard activities,
2 occurrences, or events at or related to the video lottery terminal
3 establishment or in connection with the video lottery terminal
4 operations. Each incident, without regard to materiality, shall be
5 assigned a sequential number for each such report. At a minimum,
6 the security logs shall consist of the following information, which
7 shall be recorded in a reasonable fashion noting:

8 (1) the assigned number of the incident;

9 (2) the date of the incident;

10 (3) the time of the incident;

11 (4) the location of the incident;

12 (5) the nature of the incident;

13 (6) the identity, including identification
14 information, of any persons involved in the incident and any known
15 witnesses to the incident; and

16 (7) the Tribal compliance officer making the report
17 and any other persons contributing to its preparation.

18 Sec. 9.4. ACCOUNTING.

19 Sec. 9.4.1. Accounting Records Required. The Tribe agrees
20 with regard to any video lottery terminal operations, to keep
21 accurate, complete, legible, and permanent records of all
22 transactions pertaining to revenue for six years. If the Tribe
23 keeps permanent records in a computerized or microfiche fashion, it
24 shall provide the Texas Lottery Commission, on request, with a
25 detailed index to the microfiche or computer records that is
26 indexed by date.

27 Sec. 9.4.2. Accounting Systems. The Tribe agrees with

1 regard to all video lottery terminal operations, to keep general
2 accounting records on a double entry system of accounting,
3 maintaining detailed, supporting, and subsidiary records,
4 including:

5 (a) detailed records that identify the revenues, expenses,
6 assets, liabilities, and equity of the video lottery terminal
7 establishment and operations;

8 (b) records required by the Tribe's Minimum Internal
9 Control System;

10 (c) journal entries prepared by the Tribe and its
11 independent accountant; and

12 (d) any other records that the TCA may require.

13 Sec. 9.4.3. Net Terminal Income and Expenses. The Tribe
14 agrees with regard to all video lottery terminal operations, to
15 create and maintain records sufficiently accurate to reflect the
16 net terminal income and expenses of the video lottery terminal
17 establishment and operation of video lottery terminals.

18 Sec. 9.4.4. Financial Statements. (a) The Tribe agrees to
19 prepare financial statements covering all financial activities of
20 the video lottery terminal establishment and operation of video
21 lottery terminals for a business year. The statements required by
22 this subsection must be presented on a comparative basis.

23 (b) If the Tribe changes its business year, it must prepare
24 and submit audited or reviewed financial statements to the Texas
25 Lottery Commission covering the "stub" period from the end of the
26 previous business year to the beginning of the new business year not
27 later than 120 days after the end of the stub period or incorporate

1 the financial results of the stub period in the statements for the
2 new business year.

3 Sec. 9.5. Audits. The parties agree that for purposes of
4 this agreement, the standards set forth in 25 C.F.R. Section 571.12
5 govern audits required under this agreement. The TCA shall ensure
6 that an annual independent financial audit of the Tribe's conduct
7 of video lottery games subject to this gaming agreement and of the
8 video lottery terminal establishment is secured. The audit shall,
9 at a minimum, examine revenues and expenses in connection with the
10 operation of video lottery terminals in accordance with generally
11 accepted auditing standards and shall include those matters
12 necessary to verify the determination of net terminal income and
13 the basis of the payments made to the State pursuant to this gaming
14 agreement.

15 (a) The auditor selected by the TCA shall be a firm of known
16 and demonstrable experience, expertise, and stature in conducting
17 audits of this kind and scope and shall be approved by the Texas
18 Lottery Commission.

19 (b) The audit shall be concluded within five months
20 following the close of each calendar year, provided that extensions
21 may be requested by the Tribe and may not be refused by the State if
22 the circumstances justifying the extension request are beyond the
23 Tribe's control. An extension, however, may not extend the
24 conclusion of an audit required by this gaming agreement to more
25 than 12 months following the close of the relevant calendar year.

26 (c) The audit of the operation of video lottery terminals
27 may be conducted as part of or in conjunction with the audit of the

1 video lottery terminal establishment, but if so conducted shall be
2 separately stated for the reporting purposes required herein.

3 (d) The audit shall conform to generally accepted auditing
4 standards. As part of the audit report, the auditor shall certify
5 to the TCA that, in the course of the audit, the auditor did not
6 discover any matters within the scope of the audit which were
7 determined or believed to be in violation of any provision of this
8 gaming agreement. If the auditor discovers matters determined or
9 believed to be in violation of any provision of this gaming
10 agreement, the auditor shall immediately notify the Texas Lottery
11 Commission of the alleged violation and the basis for the auditor's
12 conclusion.

13 (e) The Tribe shall assume all costs in connection with the
14 audit.

15 (f) The audit report for the conduct of video lottery games
16 shall be submitted to the Texas Lottery Commission within thirty
17 (30) days of completion. The auditor's work papers concerning
18 video lottery games shall be made available to the commission on
19 request.

20 (g) Representatives of the Texas Lottery Commission may, on
21 request, meet with the auditors to discuss the work papers, the
22 audit, or any matters in connection therewith; provided such
23 discussions are limited to video lottery information and pursue
24 legitimate state video lottery interests.

25 Sec. 9.6. Security. (a) All video lottery terminals shall
26 be continuously monitored through the use of a closed circuit
27 television system that records all activity for a continuous

1 24-hour period. All video tapes or other media used to store video
2 images shall be retained for a period of at least 30 days.

3 (b) Access to video lottery terminal locations shall be
4 restricted to persons legally entitled by age under State law to
5 play video lottery games.

6 (c) The Tribe must submit for approval by the Texas Lottery
7 Commission a security plan and a floor plan of the area or areas
8 where video lottery terminals are to be operated showing video
9 lottery terminal locations and security camera mount locations.
10 This commission approved security plan shall be subject to review
11 by the commission which may require revision of the plan on a
12 biennial basis.

13 (d) Security personnel shall be present during all hours of
14 operation at each video lottery terminal establishment. The Tribe
15 shall employ at least the number of security personnel the Texas
16 Lottery Commission determines is necessary to provide for safe and
17 approved operation of the video lottery terminal establishment and
18 the safety and well-being of the players.

19 (e) The communication technology used in connection with
20 video lottery operations must meet accepted industry standards for
21 security sufficient to minimize the possibility of any third party
22 intercepting any data transmitted to or from the video lottery
23 terminals.

24 Sec. 9.7. Exclusion of Persons. The Tribe's rules and
25 regulations shall require at a minimum the exclusion of persons
26 based on their prior conduct at the video lottery terminal
27 establishment or who, because of their criminal history or

1 association with criminal offenders, pose a threat to the integrity
2 of the conduct of video lottery games or may be playing video
3 lottery games compulsively.

4 (a) The TCA shall establish a list of the persons to be
5 excluded from any video lottery terminal establishment under this
6 provision.

7 (b) The Tribe shall employ its best efforts to exclude
8 persons on such list from entry into its video lottery terminal
9 establishment.

10 (c) Patrons who believe they may be playing video lottery
11 games on a compulsive basis may request that their names be placed
12 on the list. All gaming employees shall receive training on
13 identifying players who have a problem with compulsive playing and
14 shall be instructed to ask them to leave. Signs and other materials
15 shall be readily available to direct such compulsive players to
16 agencies where they may receive counseling. Notwithstanding any
17 other provision of this agreement, the TCA's list of self-excluded
18 persons shall not be open to public inspection.

19 (d) The Tribe or video lottery manager also may exclude any
20 other person for any reason not related to that person's race, sex,
21 national origin, physical disability, or religion.

22 Sec. 9.8. Sale of Alcoholic Beverages. The sale and service
23 of alcoholic beverages in a video lottery terminal establishment
24 shall be in compliance with state, federal, and tribal law in regard
25 to the licensing and sale of such beverages.

26 Sec. 9.9. Age Restrictions. (a) No person under the age of
27 18 may be allowed to play video lottery games, be admitted into any

1 area in a video lottery terminal establishment where video lottery
2 games are played, or be allowed to operate, or obtain a prize from
3 or in connection with the operation of, any video lottery game,
4 directly or indirectly. If during the term of this agreement, the
5 State amends its law to allow play of video lottery terminals by
6 persons under the age of 18, the Tribe may amend tribal law to
7 reduce the lawful gaming age under this agreement to correspond to
8 the lawful gaming age under state law.

9 (b) No person under the age of 18 may be employed as a gaming
10 employee unless the employment would be allowed under state law.

11 (c) No person under the age of 21 may be employed in the
12 service of alcoholic beverages at any video lottery terminal
13 establishment, unless such employment would be allowed under state
14 law.

15 Sec. 9.10. Destruction of Records. Books, records, and
16 other materials documenting the operation of video lottery
17 terminals may be destroyed only in accordance with rules and
18 regulations adopted by the TCA, which at a minimum shall provide as
19 follows:

20 (a) material that might be utilized in connection with a
21 prize claim, including incident reports, surveillance records,
22 statements, and the like, shall be maintained at least 180 days
23 beyond the time which a claim can be made under this gaming
24 agreement or, if a prize claim is made, beyond the final disposition
25 of such claim; and

26 (b) except as otherwise provided in Section 9.3(a)(1), all
27 books and records with respect to the operation of video lottery

1 terminals or the operation of the video lottery terminal
2 establishment, including all interim and final financial and audit
3 reports and materials related thereto which have been generated in
4 the ordinary course of business, shall be maintained for the
5 minimum period of four years.

6 Sec. 9.11. Location. The Tribe may establish facilities
7 for and operate video lottery terminals only on its Indian lands
8 defined by Chapter 466, Texas Government Code. The Tribe shall
9 notify the Texas Lottery Commission of any potential new video
10 lottery terminal establishment following the effective date of this
11 gaming agreement. Nothing herein shall be construed as expanding
12 or otherwise altering the term "Indian lands," as that term is
13 defined by Chapter 466, Texas Government Code.

14 Sec. 9.12. Placement and Movement of Video Lottery
15 Terminals. Placement and movement of video lottery terminals
16 within a video lottery terminal establishment must be consistent
17 with a video lottery terminal floor plan approved by the Texas
18 Lottery Commission.

19 Sec. 9.13. Monitoring of Operation of Video Lottery
20 Terminals. All terminals connected to the video lottery system
21 will be continuously monitored by the Texas Lottery Commission and
22 disabled, when, in the commission's discretion, a problem arises
23 threatening the public health, safety or welfare, or financial loss
24 to the State, or jeopardizing the integrity of the video lottery.
25 Circumstances justifying termination include malfunction of a
26 video lottery terminal or any game displayed on a video lottery
27 terminal, misuse of any video lottery terminal or video lottery

1 game, or a material breach by the Tribe in the operating
2 requirements or a material provision of this agreement.

3 Sec. 9.14. Wager Limitations. The TCA shall set the maximum
4 wager authorized for any single play of a video lottery terminal
5 consistent with any maximum wager set by rule of the Texas Lottery
6 Commission. During the term of this agreement, the wager
7 limitation set forth in this section shall be automatically
8 increased without the need to amend this agreement on each two-year
9 anniversary of the effective date to an amount equal to the wager
10 limitation multiplied by the CPI adjustment rate, rounded up to the
11 next whole dollar.

12 Sec. 9.15. Prizes. (a) Payment of prizes shall be the sole
13 and exclusive responsibility of the Tribe or video lottery manager.
14 No prizes shall be paid by the Texas Lottery Commission or the State
15 except as otherwise authorized. Video lottery tickets shall be
16 redeemable only for a period of 180 days following the date of
17 issuance. If a claim is not made for prize money on or before the
18 180th day after the date on which the video lottery ticket was
19 issued, the prize money shall become the property of the State. The
20 Tribe agrees to enact rules consistent with this provision and
21 authorized by the commission, governing use and redemption of
22 prizes and credits recorded on electronic player account records,
23 such as players' club cards and smart cards.

24 (b) Nothing herein shall limit the ability of the Tribe or
25 video lottery manager to provide promotional prizes, including wide
26 area progressive networks, in addition to prize payouts regulated
27 by the commission.

1 Sec. 9.16. Patron Disputes. (a) The State and the Texas
2 Lottery Commission shall not be liable for any video lottery
3 terminal malfunction or error by the Tribe or video lottery manager
4 that causes credit to be wrongfully awarded or denied to players.
5 Any disputes arising between players and the Tribe or video lottery
6 manager shall be resolved:

7 (1) if the fair market value of the prize is less than
8 \$1,000, in accordance with commission approved written policies of
9 the TCA with no relief available from the commission or the State;
10 or

11 (2) if the fair market value of the prize is \$1,000 or
12 more, by the commission in its sole discretion pursuant to rules
13 established by the commission.

14 (b) No court of this state or of the Tribe shall have
15 jurisdiction to review the decision of the commission resolving a
16 dispute between players and the Tribe or a video lottery manager.

17 Sec. 9.17. Transfer of Gaming Device Operating Rights.
18 During the term of this agreement, the Tribe may enter into a
19 transfer agreement with one or more federally recognized Indian
20 tribes with Indian lands in this state to acquire or transfer video
21 lottery terminal operating rights on Indian lands. The Tribe's
22 acquisition or transfer of video lottery terminal operating rights
23 is subject to the following conditions:

24 (a) Gaming Agreement. Each Indian tribe that is a party to a
25 transfer agreement must have a valid and effective gaming agreement
26 with the State that contains a provision substantially similar to
27 the provision herein permitting transfers of the Indian tribe's

1 video lottery terminal operating rights.

2 (b) Forbearance Agreement. If the Tribe enters into a
3 transfer agreement to transfer some or all of its video lottery
4 terminal operating rights, the Tribe also shall execute a
5 forbearance agreement with the State. The forbearance agreement
6 shall include a waiver of all rights of the Tribe to put into play or
7 operate the number of video lottery terminal operating rights
8 transferred during the term of the transfer agreement.

9 (c) The Tribe must be operating video lottery terminals at
10 least equal to its current video lottery terminal allocation
11 before, or simultaneously with, the Tribe acquiring the right to
12 operate additional video lottery terminals by a transfer agreement.
13 The Tribe is not required to utilize any video lottery terminal
14 operating rights it acquires, or to utilize them before acquiring
15 additional video lottery terminal operating rights.

16 (d) The Tribe shall not at any time simultaneously acquire
17 video lottery terminal operating rights and transfer video lottery
18 terminal operating rights pursuant to transfer agreements.

19 Sec. 9.17.1. Transfer Agreements. The transfer of video
20 lottery terminal operating rights may be made pursuant to a
21 transfer agreement between two Indian tribes. A transfer agreement
22 must include the following provisions:

23 (a) the number of video lottery terminal operating rights
24 transferred and acquired;

25 (b) the duration of the transfer agreement;

26 (c) the consideration to be paid by the Indian tribe
27 acquiring the video lottery terminal operating rights to the Indian

1 tribe transferring the video lottery terminal operating rights and
2 the method of payment;

3 (d) the dispute resolution and enforcement procedures,
4 including a provision for the State to receive notice of any such
5 proceedings; and

6 (e) a procedure to provide quarterly notice to the Texas
7 Lottery Commission of payments made and received, and to provide
8 timely notice to the commission of disputes, revocation, amendment,
9 and termination.

10 Sec. 9.17.2. Transfer Notice. At least 30 days before the
11 execution of a transfer agreement the Tribe shall send to the Texas
12 Lottery Commission a transfer notice of intent to acquire or
13 transfer video lottery terminal operating rights. The transfer
14 notice shall include a copy of the proposed transfer agreement, the
15 proposed forbearance agreement, and a copy of the tribal resolution
16 authorizing the acquisition or transfer.

17 Sec. 9.17.3. Texas Lottery Commission Denial of Transfer.

18 (a) The Texas Lottery Commission may deny a transfer as set forth
19 in a transfer notice only if:

20 (1) the proposed transfer violates the conditions set
21 forth in this agreement; or

22 (2) the proposed transfer agreement does not contain
23 the minimum requirements listed in this agreement.

24 (b) The commission's denial of a proposed transfer must be
25 in writing, must include the specific reasons for the denial
26 (including copies of all documentation relied upon by the
27 commission to the extent allowed by state law), and must be received

1 by the Tribe within 60 days of the commission's receipt of the
2 transfer notice. If the Tribe disputes the commission's denial of a
3 proposed transfer, the Tribe shall have the right to have the
4 dispute resolved pursuant to the dispute resolution process
5 provided in Section 15.0 herein.

6 Sec. 9.17.4. Effective Date of Transfer. If the Tribe does
7 not receive a notice of denial of the transfer from the Texas
8 Lottery Commission within the time period specified in Section
9 9.17.3, the proposed transfer agreement shall become effective on
10 the later of the 61st day following the commission's receipt of the
11 transfer notice or the date set forth in the transfer agreement.

12 Sec. 9.17.5. Use of Brokers. The Tribe shall not contract
13 with any person to act as a broker in connection with a transfer
14 agreement. No person shall be paid a percentage fee or a commission
15 as a result of a transfer agreement, nor shall any person receive a
16 share of any financial interest in the transfer agreement or the
17 proceeds generated by the transfer agreement. Any person acting as
18 a broker in connection with a transfer agreement is providing
19 gaming services.

20 Sec. 9.17.6. Revenue from Transfer Agreements. The Tribe
21 agrees that all proceeds received by the Tribe as a transferor under
22 a transfer agreement shall be used for the governmental purposes
23 permitted under this agreement for revenue generated by video
24 lottery terminal operations. The Tribe shall include the proceeds
25 in an annual audit and shall make available to the State that
26 portion of the audit addressing proceeds from transfer agreements.

27 Sec. 9.17.7. Agreed Upon Procedures Report. The Tribe

1 agrees to provide to the Texas Lottery Commission, either
2 separately or with the other party to the transfer agreement, an
3 agreed upon procedures report from an independent certified public
4 accountant. The procedures to be examined and reported upon are
5 whether payments made under the transfer agreement were made in the
6 proper amount, made at the proper time, and deposited in an account
7 of the Indian tribe transferring the video lottery terminal
8 operating rights.

9 Sec. 9.17.8. State Payment. Proceeds received by the Tribe
10 as a transferor under a transfer agreement from the transfer of
11 video lottery terminal operating rights are not subject to any
12 payment to the State under this agreement or otherwise.

13 Sec. 9.17.9. Access to Records Regarding Transfer
14 Agreements. The Texas Lottery Commission shall have access to all
15 records of the Tribe directly relating to transfer agreements and
16 forbearance agreements.

17 Sec. 9.18. Supervision of Patrons. The Tribe agrees to
18 ensure that gaming employees, at all times, monitor video lottery
19 terminals to prevent access to or play by persons who are under the
20 age of 18 years or who are visibly intoxicated.

21 Sec. 9.19. Hours of Operation. The Tribe may establish by
22 ordinance or regulation the permissible hours and days of operation
23 of video lottery terminal operations; provided, however, that with
24 respect to the sale of liquor, the Tribe agrees to adopt and comply
25 with standards at least as restrictive as any applicable state
26 liquor laws at all video lottery terminal establishments.

27 Sec. 9.20. Automatic Teller Machines. The Tribe agrees to

1 adopt and comply with a Tribal ordinance establishing responsible
2 restrictions on the provision of financial services at video
3 lottery terminal establishments. At a minimum, the ordinance shall
4 prohibit:

5 (a) locating an automatic teller machine ("ATM") adjacent
6 to, or in proximity to, any video lottery terminal, however, an ATM
7 may be installed in a video lottery terminal establishment,
8 provided that the Tribe adopts and complies with an ordinance
9 establishing standards no less restrictive than any state and
10 federal law governing installation of ATMs within a gaming
11 facility;

12 (b) locating in a video lottery terminal establishment an
13 ATM that accepts electronic benefit transfer cards issued pursuant
14 to a state or federal program that is intended to provide for needy
15 families or individuals; and

16 (c) accepting checks or other non-cash items issued
17 pursuant to a state or federal program that is intended to provide
18 for needy families or individuals.

19 Sec. 9.21. Advertising. Advertisements or promotions must
20 comply with guidelines established by the TCA that are consistent
21 with criteria established by the Texas Lottery Commission.

22 Sec. 9.22. Remedies and Penalties for Unlawful Gaming.
23 Operation or possession of any gaming devices not expressly
24 authorized under this gaming agreement or Texas law (excluding any
25 Class II gaming authorized under applicable federal law) shall be
26 considered a material breach of the gaming agreement and justify
27 termination of the agreement. Under those circumstances, the State

1 may bring an action in state court and shall be entitled to an
2 injunction prohibiting the continued operation of any unlawful
3 gaming activity upon a showing by a preponderance of evidence that
4 the breach has occurred. In any such proceeding, it is the finding
5 of the legislature that irreparable injury and inadequate remedy at
6 law shall be presumed once the State has demonstrated the violation
7 has occurred. If the State does not seek an injunction for such a
8 material breach of the gaming agreement, the Tribe agrees to pay a
9 contract penalty of \$10,000 per day for every day the violation or
10 breach continues. If the breach or violation is not cured within 30
11 days, the State shall bring an action to enjoin the unlawful conduct
12 and may disable all video lottery terminals operated by the Tribe or
13 operated by a video lottery manager on the Indian lands of the
14 Tribe.

15 SECTION 10.0. ENFORCEMENT OF GAMING AGREEMENT PROVISIONS.

16 Sec. 10.1. The Tribe and TCA shall be responsible for
17 regulating activities pursuant to this gaming agreement. As part
18 of its responsibilities, the Tribe shall:

19 (a) take reasonable measures to assure the physical safety
20 of video lottery terminal establishment patrons and personnel,
21 prevent illegal activity at the video lottery terminal
22 establishment, and protect any rights of patrons under the Indian
23 Civil Rights Act of 1968 (25 U.S.C. Sections 1301-1303);

24 (b) promptly notify appropriate law enforcement authorities
25 of persons who may be involved in illegal acts in accordance with
26 applicable tribal, federal, and state law;

27 (c) assure that the construction and maintenance of the

1 video lottery terminal establishment meets or exceeds federal and
2 Tribal standards for comparable buildings and minimum standards
3 under this gaming agreement; and

4 (d) prepare adequate emergency access and preparedness
5 plans to ensure the health and safety of all video lottery terminal
6 establishment patrons. On finalization of the emergency access and
7 preparedness plans, the TCA or the Tribe shall forward copies of the
8 plans to the Texas Lottery Commission.

9 Sec. 10.2. Members and employees of the TCA shall be
10 licensed in accordance with the provisions of this agreement. All
11 licenses for members and employees of the TCA shall be issued
12 according to the same standards and terms applicable to video
13 lottery terminal establishment employees. The TCA shall employ
14 qualified compliance officers under the authority of the TCA. The
15 compliance officers shall be independent of the video lottery
16 terminal establishment, and shall be supervised by and accountable
17 only to the TCA. A TCA compliance officer shall be available to the
18 video lottery terminal establishment during all hours of operation
19 on reasonable notice, and shall have immediate access to any and all
20 areas of the video lottery terminal establishment for the purpose
21 of ensuring compliance with the provisions of this gaming
22 agreement. The TCA shall investigate any suspected or reported
23 violation of this gaming agreement and shall require the correction
24 of the violation. The TCA shall prepare and retain in its files a
25 timely written report of each investigation and any action taken in
26 response to the investigation, and shall forward copies of the
27 report to the Texas Lottery Commission within 15 days of the date of

1 the filing. Any such violations shall be reported immediately to
2 the TCA, and the TCA shall immediately forward the same to the
3 commission. In addition, the TCA shall promptly report to the
4 commission any such violations that it independently discovers.

5 Sec. 10.3. In order to develop and foster a positive and
6 effective relationship in the enforcement of the provisions of this
7 gaming agreement, representatives of the TCA and the Texas Lottery
8 Commission shall meet at least annually to review past practices
9 and examine methods to improve the regulatory scheme created by
10 this gaming agreement. The meetings shall take place at a location
11 mutually agreed to by the TCA and the commission. The commission,
12 before or during such meetings, shall disclose to the TCA any
13 concerns, suspected activities, or pending matters reasonably
14 believed to possibly constitute violations of this gaming agreement
15 by any person, organization, or entity, if such disclosure will not
16 compromise the interest sought to be protected.

17 Sec. 10.4. Financial Obligations of the Texas Lottery
18 Commission. Any financial obligation of the Texas Lottery
19 Commission or of the State, under this gaming agreement or arising
20 from the operation of the video lottery on the Tribe's Indian lands,
21 shall be payable solely out of the income, revenues, and receipts of
22 the commission resulting from the operation of video lottery
23 terminals on Indian lands of the Tribe.

24 Sec. 10.5. Penalties and Remedies for Noncompliance. (a)
25 Failure to timely remit revenue generated by video lottery
26 terminals to the Texas Lottery Commission or any sales tax or other
27 fee owed to the State or to timely file any report or information

1 required under this gaming agreement or by applicable federal or
2 state law shall constitute a material breach of this gaming
3 agreement. After receiving at least 24 hours written notice from
4 the commission and an additional 48 hours for the opportunity to
5 remedy the breach or otherwise correct the violation, the Tribe
6 shall be subject to contract penalties in the amount of \$10,000 per
7 day for the breach. If the breach is not cured within 30 days, the
8 commission shall disable all video lottery terminals operated by
9 the Tribe.

10 (b) If the Tribe is in material breach of this agreement and
11 the Texas Lottery Commission exercises its right to disable all
12 video lottery terminals operated by the Tribe, the commission shall
13 have the right to enter the premises of any video lottery terminal
14 establishment on the Tribe's Indian lands and remove any video
15 lottery games or other video lottery equipment owned by the State.

16 Sec. 10.6. No Liability of the State Related to
17 Enforcement. The State and the Texas Lottery Commission are not
18 liable for any enforcement of the provisions of this gaming
19 agreement.

20 SECTION 11.0. STATE MONITORING OF GAMING AGREEMENT.

21 Sec. 11.1. (a) The Texas Lottery Commission shall,
22 pursuant to the provisions of this gaming agreement, have the
23 authority to monitor the conduct of video lottery games to ensure
24 video lottery games are conducted in compliance with the provisions
25 of this gaming agreement. In order to properly monitor the conduct
26 of video lottery games, in addition to the State's operation and
27 control of the central system and video lottery system, agents of

1 the commission shall have reasonable access to all areas of the
2 video lottery terminal establishment related to the conduct of
3 video lottery games as provided herein:

4 (1) the commission shall have access to the video
5 lottery terminal establishment only during the video lottery
6 terminal establishment's normal operating hours; provided that to
7 the extent such inspections are limited to areas of the video
8 lottery terminal establishment where the public is normally
9 allowed, commission agents may inspect the video lottery terminal
10 establishment without giving prior notice to the Tribe;

11 (2) any suspected or claimed violations of this gaming
12 agreement or of law shall be directed in writing to the TCA;
13 commission agents may not interfere with the functioning of the
14 video lottery terminal establishment unless the public safety,
15 welfare, or financial loss to the State, or integrity of the state
16 lottery so requires; and

17 (3) before entering any nonpublic area of the video
18 lottery terminal establishment, commission agents must provide
19 proper photographic identification to the TCA.

20 (b) A TCA agent shall accompany a commission agent in
21 nonpublic areas of the video lottery terminal establishment. A
22 one-hour notice by the commission to the TCA may be required to
23 assure that a TCA officer is available to accompany commission
24 agents at all times.

25 Sec. 11.2. Subject to the provisions herein, agents of the
26 Texas Lottery Commission shall have the right to review and copy
27 documents or other records related to the operation of video

1 lottery terminals. The review and copying of those records shall be
2 during normal business hours or hours otherwise at the Tribe's
3 discretion. However, the commission may not copy those portions of
4 any records related to the Tribe's operation of video lottery
5 terminals that contain business or marketing strategies or other
6 proprietary and confidential information, including customer
7 lists, business plans, marketing studies, and customer
8 demographics or profiles. No records of the Tribe related to its
9 conduct of video lottery games or copies thereof shall be released
10 to the public by the State. All such records shall be deemed
11 confidential records owned by the Tribe and are not subject to
12 public disclosure by the State.

13 Sec. 11.3. At the completion of any commission inspection
14 or investigation, the Texas Lottery Commission shall forward a
15 written report thereof to the TCA. The TCA shall be apprised on a
16 timely basis of all pertinent, nonconfidential information
17 regarding any violation of federal, or state laws, rules or
18 regulations, or this gaming agreement. Nothing herein prevents the
19 commission from contacting Tribal or federal law enforcement
20 authorities concerning suspected criminal wrongdoing involving the
21 TCA. The TCA may interview commission agents and inspectors upon
22 reasonable notice and examine work papers in the same fashion that
23 commission agents and inspectors may examine auditors' notes and
24 make auditor inquiry unless providing such information to the TCA
25 will compromise the interests sought to be protected.

26 Sec. 11.4. Nothing in this gaming agreement shall be deemed
27 to authorize the State to regulate the Tribe's government,

1 including the TCA, or to interfere in any way with the Tribe's
2 selection of its governmental officers, including members of the
3 TCA. The Texas Lottery Commission and the Tribe, however, on
4 request of the Tribe, shall jointly employ, at the Tribe's expense,
5 an independent firm to perform on behalf of the commission the
6 duties set forth in Sections 11.2 and 11.3.

7 SECTION 12.0. JURISDICTION.

8 Sec. 12.1. Except as expressly provided herein, this gaming
9 agreement shall not alter tribal, federal, or state civil
10 adjudicatory or criminal jurisdiction.

11 Sec. 12.2. The Tribe expressly consents to the State's
12 jurisdiction to enforce the terms of this gaming agreement
13 including any request for judicial injunctive relief to prohibit
14 unlawful gaming activities.

15 SECTION 13.0. PUBLIC AND WORKPLACE HEALTH, SAFETY, AND
16 LIABILITY.

17 Sec. 13.1. The Tribe will not conduct any gaming activity in
18 a manner that endangers the public health, safety, or welfare.

19 Sec. 13.2. For the purposes of this gaming agreement, the
20 Tribe agrees to:

21 (a) adopt and comply with standards at least as stringent as
22 state public health standards for food and beverage handling at any
23 video lottery terminal establishment. The Tribe will allow
24 inspection of food and beverage services at any video lottery
25 terminal establishment by state or county health inspectors, during
26 normal hours of operation, to assess compliance with these
27 standards, unless inspections are routinely made by an agency of

1 the United States government to ensure compliance with equivalent
2 standards of the United States Public Health Service. Nothing
3 herein shall be construed as submission of the Tribe to the
4 jurisdiction of those state or county health inspectors, but any
5 alleged violations of the standards shall be treated as alleged
6 violations of the gaming agreement;

7 (b) adopt and comply with standards at least as stringent as
8 federal water quality and safe drinking water standards applicable
9 in Texas at any video lottery terminal establishment. The Tribe
10 will allow for inspection and testing of water quality at any video
11 lottery terminal establishment by state or county health
12 inspectors, as applicable, during normal hours of operation, to
13 assess compliance with these standards, unless inspections and
14 testing are made by an agency of the United States pursuant to, or
15 by the Tribe under express authorization of, federal law, to ensure
16 compliance with federal water quality and safe drinking water
17 standards. Nothing herein shall be construed as submission of the
18 Tribe to the jurisdiction of those state or county health
19 inspectors, but any alleged violations of the standards shall be
20 treated as alleged violations of this gaming agreement;

21 (c) comply with the building and safety standards set forth
22 in Section 8.4 of this agreement;

23 (d) carry not less than five million dollars (\$5,000,000) in
24 public liability insurance for patron claims. The Tribe herein
25 provides reasonable assurance that such claims will be promptly and
26 fairly adjudicated, and that legitimate claims will be paid;
27 provided that nothing herein requires the Tribe to agree to

1 liability for punitive damages or attorneys' fees. On or before the
2 effective date of this gaming agreement or not less than 30 days
3 before the commencement of operation of video lottery terminals
4 under this gaming agreement, whichever is later, the Tribe shall
5 adopt and make available to patrons a tort liability ordinance
6 setting forth the terms and conditions, if any, under which the
7 Tribe waives immunity to suit for money damages resulting from
8 intentional or negligent injuries to person or property at the
9 video lottery terminal establishment or in connection with the
10 Tribe's operation of video lottery terminals. The tort liability
11 ordinance shall include procedures for processing any claims for
12 such money damages. Nothing in this section shall require the Tribe
13 to waive its immunity to suit except to the extent of the policy
14 limits set out in this subsection. Any insurance policy provided in
15 compliance with the terms of this subsection shall provide that the
16 policy provider shall not raise the Tribe's sovereign immunity as a
17 defense or otherwise to avoid payment of a claim under this
18 subsection;

19 (e) adopt and comply with standards at least as stringent as
20 federal workplace and occupational health and safety standards at
21 any video lottery terminal establishment. The Tribe will allow for
22 inspection of video lottery terminal establishment workplaces by
23 state inspectors, during normal hours of operation, to assess
24 compliance with these standards, unless inspections are regularly
25 made by an agency of the United States government to ensure
26 compliance with federal workplace and occupational health and
27 safety standards. Nothing herein shall be construed as submission

1 of the Tribe to the jurisdiction of those state inspectors, but any
2 alleged violations of the standards shall be treated as alleged
3 violations of this gaming agreement;

4 (f) comply with tribal codes and any applicable federal law
5 regarding public health and safety;

6 (g) adopt and comply with standards at least as stringent as
7 federal laws and state laws forbidding employers generally from
8 discriminating in the employment of persons to work for the Tribe in
9 relation to its operation of video lottery terminals or in the video
10 lottery terminal establishment on the basis of race, color,
11 religion, national origin, gender, sexual orientation, age, or
12 disability. However, nothing herein shall preclude the Tribe from
13 giving a preference in employment to Indians, pursuant to a duly
14 adopted tribal ordinance;

15 (h) adopt and comply with standards that are at least as
16 stringent as state laws prohibiting a video lottery manager or any
17 employee thereof from cashing any check drawn against a federal,
18 state, county, or city fund, including social security,
19 unemployment insurance, disability payments, or public assistance
20 payments;

21 (i) adopt and comply with standards that are at least as
22 stringent as state laws governing the extension of credit to, the
23 cashing of checks for, and other financial transactions with
24 patrons calculated to protect players from problem and pathological
25 gambling; and

26 (j) adopt and comply with the provisions of the Bank Secrecy
27 Act (31 U.S.C. Sections 5311-5314), as amended, and all reporting

1 requirements of the Internal Revenue Service, insofar as such
2 provisions and reporting requirements are applicable to gaming
3 facilities.

4 Sec. 13.2.1. The Tribe agrees to adopt and, not later than
5 30 days after the effective date of this gaming agreement, make
6 available on request the standards described in Subsections (a)-(c)
7 and (e)-(j) of Section 13.2 to which the Tribe is held with regard
8 to operation of video lottery terminals. In the absence of a
9 promulgated tribal standard in respect to a matter identified in
10 those subsections, or the express adoption of an applicable federal
11 statute or regulation instead of a tribal standard in respect to any
12 such matter, an applicable state statute or regulation shall be
13 deemed to have been adopted by the Tribe as the applicable standard.

14 Sec. 13.3. Participation in State Statutory Programs
15 Related to Employment. (a) Instead of allowing the Tribe to
16 participate in the state statutory workers' compensation system for
17 employees of a video lottery terminal establishment or otherwise
18 engaged in the operation of video lottery terminals, the Tribe may
19 create and maintain a system that provides redress for employee
20 work-related injuries through requiring insurance or
21 self-insurance. The system must include a scope of coverage,
22 availability of an independent medical examination, right to
23 notice, hearings before an independent tribunal, a means of
24 enforcement against the employer, and benefits comparable to those
25 mandated for comparable employees under state law. Not later than
26 the effective date of this gaming agreement, or 60 days before the
27 commencement of video lottery terminal operations under this gaming

1 agreement, the Tribe will advise the State of its election to
2 participate in the statutory workers' compensation system or,
3 alternatively, will forward to the State all relevant ordinances
4 that have been adopted and all other documents establishing the
5 system and demonstrating that the system is fully operational and
6 compliant with the comparability standard set forth in this
7 subsection. The parties agree that independent contractors doing
8 business with the Tribe must comply with all state workers'
9 compensation laws and obligations.

10 (b) The Tribe agrees to participate in the State's program
11 for providing unemployment compensation benefits and unemployment
12 compensation disability benefits with respect to employees of the
13 video lottery terminal establishment, and the Tribe consents to the
14 jurisdiction of the state agencies charged with the enforcement of
15 that code and of the courts of the State for purposes of
16 enforcement.

17 (c) As a matter of comity, with respect to persons employed
18 at the video lottery terminal establishment in capacities otherwise
19 related to the operation of video lottery terminals, other than
20 members of the Tribe, the Tribe shall withhold all taxes due to the
21 State as provided by Texas law, and shall forward the amounts as
22 provided by State law.

23 Sec. 13.4. Emergency Service Accessibility. The Tribe
24 shall make reasonable provisions for adequate emergency fire,
25 medical, and related relief and disaster services for patrons and
26 employees of the video lottery terminal establishment.

27 Sec. 13.5. The Tribe agrees to prohibit the intentional,

1 knowing, or reckless possession of a firearm, illegal knife, club,
2 explosive weapon, machine gun, firearm silencer, knuckles,
3 armor-piercing ammunition, a chemical dispensing device, or a zip
4 gun, as those terms are defined in Section 46.01, Texas Penal Code,
5 at all times in the video lottery terminal establishment. The
6 defenses that apply to the prohibition of possession of those
7 weapons on the premises of a racetrack under Section 46.03, Texas
8 Penal Code, shall also apply to the prohibition of possession of the
9 weapons in video lottery terminal establishments. In addition,
10 Tribal security or Tribal law enforcement personnel, shall be
11 allowed to possess firearms and clubs at a video lottery terminal
12 establishment as authorized by Tribal law.

13 Sec. 13.6. Tribal Law Enforcement Plan. The Tribe agrees to
14 implement a written tribal law enforcement services plan that
15 provides a comprehensive and effective means to address criminal
16 and undesirable activity at the video lottery terminal
17 establishment. The plan shall provide that sufficient tribal law
18 enforcement resources are available 24 hours a day, seven days per
19 week to protect the public health, safety, and welfare at the video
20 lottery terminal establishment. To accommodate investigations and
21 intelligence sharing, the Tribe will provide that a police officer
22 holding a current Texas police officer standards and training
23 certification is employed by the Tribe and assigned to handle video
24 lottery terminal related matters when they arise. Intelligence
25 liaisons will be established at the tribal police department or TCA
26 and also at the Texas Lottery Commission. There will be federal,
27 tribal, and state cooperation in task force investigations. The

1 commission's intelligence unit will gather, coordinate,
2 centralize, and disseminate accurate and current intelligence
3 information pertaining to criminal and undesirable activity that
4 may threaten patrons, employees, and assets of a video lottery
5 terminal establishment or the video lottery system. The State and
6 the Tribe will coordinate the use of resources, authority, and
7 personnel of the State and the Tribe for the shared goal of
8 preventing and prosecuting criminal or undesirable activity by
9 players, employees, or businesses in connection with tribal video
10 lottery terminal operations.

11 Sec. 13.7. Annual Statement of Compliance Regarding Use of
12 Revenue. The Tribe agrees to submit to the Texas Lottery Commission
13 an annual statement of compliance regarding the use of its share of
14 revenue generated from video lottery terminal operations and a copy
15 of a current tribal ordinance requiring that revenue generated from
16 video lottery terminal operations be used exclusively for the
17 establishment and improvement of governmental services and
18 programs.

19 SECTION 14.0. EXCLUSIVITY AND FEES.

20 Sec. 14.1. The parties acknowledge and recognize that this
21 gaming agreement provides the Tribe territorial exclusivity
22 through the permitted operation of video lottery terminals without
23 requiring construction or operation of a racetrack for live horse
24 or dog racing. This territorial exclusivity and the additional
25 benefits to the Tribe are of substantial benefit to the Tribe and,
26 consistent with Federal Indian policy, provide special
27 opportunities for tribal economic opportunity through gaming

1 within the external boundaries of Texas. In consideration thereof,
2 as long as the State does not after the effective date of this
3 gaming agreement authorize a person to operate video lottery
4 terminals or any additional form of gaming that would be considered
5 a lottery or gift enterprise under Section 47(a), Article III,
6 Texas Constitution, without the Tribe's written consent within the
7 exclusive territory designated by this gaming agreement for the
8 operation of video lottery games by the Tribe, the Tribe agrees to
9 pay the fees described in this section.

10 (a) The Tribe covenants and agrees to pay to the State a fee
11 derived from net terminal income calculated as set forth in
12 Subsection (b) of this section. The fee shall be deducted from the
13 daily deposit of funds into the State's account from the video
14 lottery terminal operations prior to the State's transfer of funds
15 back to the Tribe for such operations.

16 (b) The fee shall be ___ percent of all net terminal income
17 received by the Tribe in a calendar year.

18 Sec. 14.2. Start-Up Assessment. On the effective date of
19 this gaming agreement, the Tribe shall deposit with the Texas
20 Lottery Commission the sum of \$_____ ("Start-Up Assessment"). The
21 purpose of the Start-Up Assessment shall be to assist the State in
22 initiating its administrative and oversight responsibilities
23 hereunder, and shall be a one-time payment to the State for such
24 purposes.

25 Sec. 14.3. Nothing in this gaming agreement shall be deemed
26 to authorize the State to impose any tax, fee, charge, or assessment
27 on the Tribe or the video lottery terminal establishment except as

1 expressly authorized pursuant to this gaming agreement under
2 Sections 4.6, 6.21(b), and 13.3(c). To the extent that the Tribe is
3 required under federal law to report prizes awarded, the Tribe
4 agrees to copy such reports to the Texas Lottery Commission.
5 Nothing in this gaming agreement, however, shall be interpreted to
6 preclude the State from requiring the Tribe to collect and remit to
7 the State state sales tax on goods sold to non-Indians that are not
8 produced on tribal land, developing and marketing a tribal resource
9 or for which the Tribe has not participated in any meaningful way to
10 their design. Any state sales tax on the sale of such goods to
11 non-Indians shall be conclusively presumed to be a direct tax on the
12 retail consumer, pre-collected for the purpose of convenience and
13 facility.

14 Sec. 14.4. In consideration for the covenants and
15 agreements contained herein, the State agrees that it will not,
16 during the term of this gaming agreement, allow the nontribal
17 operation of any video lottery games or other gaming that would be
18 considered a lottery or gift enterprise under Section 47(a),
19 Article III, Texas Constitution, without the Tribe's written
20 consent within _____ [limitation on state video lottery or other
21 new lottery gaming in exclusive Indian video lottery territory].
22 The state recognizes the importance of this provision to the Tribe
23 and agrees, in the event of a breach of this provision by the State,
24 to require any nontribal entity that operates any such games within
25 the prohibited territory to remit to the State not less than 50
26 percent of any revenue from those games. The State further agrees
27 to remit that revenue at least quarterly to Eligible Tribes, as

1 liquidated damages. For purposes of this part, "Eligible Tribes"
2 shall mean those tribes that have entered into a gaming agreement
3 with the State under Section 466.604, Texas Government Code, and
4 are operating gaming pursuant to the gaming agreement within _____
5 [description of exclusive territory for tribal video lottery].
6 Such liquidated damages shall be allocated pro rata to the Eligible
7 Tribes based on the number of video lottery terminals operated by
8 each Eligible Tribe in the time period when those revenues were
9 generated.

10 Sec. 14.5. The Tribe shall remit to the State a fee of
11 \$_____ for each video lottery terminal delivered to a video
12 lottery establishment of the Tribe.

13 SECTION 15.0. DISPUTE RESOLUTION.

14 Sec. 15.1. Voluntary Resolution; Reference to Other Means
15 of Resolution. In recognition of the government-to-government
16 relationship of the Tribe and the State, the parties shall make
17 their best efforts to resolve disputes that occur under this gaming
18 agreement by good faith negotiations whenever possible. Therefore,
19 without prejudice to the right of either party to seek injunctive
20 relief or specific relief provided in this agreement against the
21 other when circumstances are deemed to require immediate relief,
22 the parties hereby establish a threshold requirement that disputes
23 between the Tribe and the State first be subjected to a process of
24 meeting and conferring in good faith in order to foster a spirit of
25 cooperation and efficiency in the administration and monitoring of
26 performance and compliance by each other with the terms,
27 provisions, and conditions of this gaming agreement, as follows:

1 (a) either party shall give the other, as soon as possible
2 after the event giving rise to the concern, a written notice setting
3 forth, with specificity, the issues to be resolved;

4 (b) the parties shall meet and confer in a good faith
5 attempt to resolve the dispute through negotiation not later than
6 10 days after receipt of the notice, unless both parties agree in
7 writing to an extension of time;

8 (c) if the dispute is not resolved to the satisfaction of
9 the parties within 30 calendar days after the first meeting, then
10 either party may seek to have the dispute resolved by an arbitrator
11 in accordance with this section; and

12 (d) disagreements that are not otherwise resolved by
13 arbitration or other mutually acceptable means as provided herein
14 may be resolved in the United States District Court with
15 jurisdiction over the location or planned location of the Tribe's
16 video lottery terminal establishment or, if the federal courts lack
17 jurisdiction, in a state district court in Travis County. The
18 disputes to be submitted to court action are limited to claims of
19 breach or violation of this gaming agreement or failure to
20 negotiate in good faith as required by the terms of this gaming
21 agreement. The parties agree that, except in the case of imminent
22 threat to the public health, safety, or welfare or the integrity of
23 the lottery, reasonable efforts will be made to explore alternative
24 dispute resolution avenues prior to resorting to judicial process.

25 Sec. 15.2. Arbitration Rules. Arbitration shall be
26 conducted in accordance with the policies and procedures of the
27 Commercial Arbitration Rules of the American Arbitration

1 Association, provided that application of these rules shall not be
2 construed to waive the State's sovereign immunity to an extent
3 greater than otherwise authorized herein. Arbitration shall be
4 held at such location as the parties may agree. Each side shall
5 bear its own costs, attorneys' fees, and one-half the costs and
6 expenses of the American Arbitration Association and the
7 arbitrator, unless the arbitrator rules otherwise. Only one
8 neutral arbitrator may be named, unless the Tribe or the State
9 objects, in which case a panel of three arbitrators (one of whom is
10 selected by each party) will be named. The decision of the
11 arbitrator(s) shall be in writing, shall give reasons for the
12 decision, and shall be binding. Judgment on the award may be entered
13 in any federal or state court having jurisdiction thereof.

14 Sec. 15.3. Limited Waiver of Sovereign Immunity. (a) In
15 the event that a dispute is to be resolved in federal court or a
16 state court of competent jurisdiction as provided in this section,
17 the State and the Tribe expressly consent to be sued therein and
18 wave any immunity therefrom that they may have provided that:

19 (1) the dispute is limited solely to issues arising
20 under this gaming agreement;

21 (2) neither side makes any claim for monetary damages
22 (that is, only injunctive, specific performance, including
23 enforcement of a provision of this gaming agreement requiring
24 payment of money to one or another of the parties, or declaratory
25 relief is sought); and

26 (3) no person or entity other than the Tribe and the
27 State is party to the action, unless failure to join a third party

1 would deprive the court of jurisdiction, provided that nothing
2 herein shall be construed to constitute a waiver of the sovereign
3 immunity of either the Tribe or the State in respect to any such
4 third party.

5 (b) In the event of intervention by any additional party
6 into any such action without the consent of the Tribe and the State,
7 the waivers of either the Tribe or the State provided for herein may
8 be revoked, unless joinder is required to preserve the court's
9 jurisdiction, provided that nothing herein shall be construed to
10 constitute a waiver of the sovereign immunity of either the Tribe or
11 the State in respect to any such third party.

12 (c) The waivers and consents provided for under this section
13 shall extend to civil actions authorized by this gaming agreement,
14 such as actions to compel arbitration, any arbitration proceeding
15 herein, any action to confirm or enforce any judgment or
16 arbitration award as provided herein, and any appellate proceedings
17 emanating from a matter in which an immunity waiver has been
18 granted. Except as stated herein or elsewhere in this gaming
19 agreement, no other waivers or consents to be sued, either express
20 or implied, are granted by either party.

21 (d) The State only waives sovereign immunity to the extent
22 authorized by Section 466.601, Texas Government Code.

23 SECTION 16.0. CONSTRUCTION OF GAMING AGREEMENT; FEDERAL
24 APPROVAL.

25 Sec. 16.1. Each provision, section, and subsection of this
26 gaming agreement shall stand separate and independent of every
27 other provision, section, or subsection. In the event that a

1 federal district court or a state court of competent jurisdiction
2 as provided in this agreement shall find any provision, section, or
3 subsection of this gaming agreement to be invalid, the remaining
4 provisions, sections, and subsections of this gaming agreement
5 shall remain in full force and effect, unless the invalidated
6 provision, section, or subsection is material. It is a material
7 provision of this gaming agreement that Class III gaming be limited
8 to that expressly authorized under this gaming agreement, and
9 Subchapter K, Chapter 466, Texas Government Code. If any final and
10 nonappealable judicial determination authorizes or requires the
11 State to authorize that any Class III gaming be operated by the
12 Tribe or by any other federally recognized Indian tribe in the
13 state, other than video lottery terminals connected to the video
14 lottery system or to a government operated video lottery system
15 structured identical to that expressly authorized under Subchapter
16 K, Chapter 466, Texas Government Code, if so required by federal
17 law, then this gaming agreement shall be null and void for all
18 purposes.

19 Sec. 16.2. Each party hereto agrees to defend the validity
20 of this gaming agreement and the legislation in which it is
21 embodied.

22 Sec. 16.3. The parties shall cooperate in seeking approval
23 of this gaming agreement from an appropriate federal agency if so
24 required by federal law.

25 SECTION 17.0. NOTICES.

26 All notices required under this gaming agreement shall be
27 given by certified mail, return receipt requested, commercial

1 overnight courier service, or personal delivery, to the following
2 persons:

- 3 Governor
- 4 Chair, State-Tribal Relations Committee
- 5 Attorney General
- 6 [Principal Chief, Governor or Chair]
- 7 [Name of Tribe]
- 8 [Address]

9 With copies to: _____

10 SECTION 18.0. DURATION, NEGOTIATION, AND TERMINATION.

11 Sec. 18.1. This gaming agreement shall become effective on
12 the last date of the satisfaction of the following requirements:

13 (a) due execution on behalf of the Tribe, including
14 obtaining all tribal resolutions and completing other tribal
15 procedures as may be necessary to render the Tribe's execution
16 effective including a final and nonappealable decision of a tribal
17 court of competent jurisdiction that the Tribe's execution of this
18 gaming agreement is effective and that all parts and provisions of
19 the gaming agreement are enforceable by and against the Tribe as set
20 forth herein;

21 (b) any federal regulatory approval required under federal
22 law and, if so required, publication in the Federal Register or
23 satisfaction of any other requirement of federal law; and

24 (c) payment of the Start-up Assessment provided for in
25 Section 14.2 of this gaming agreement.

26 Sec. 18.2. This gaming agreement shall have a term which
27 will expire 10 years from the effective date; provided that within

1 one hundred eighty (180) days of the expiration of this gaming
2 agreement or any renewal thereof, either the Tribe or the State,
3 acting through its Governor, may request to renegotiate the revenue
4 sharing terms of this gaming agreement. The Tribe's noncompliance
5 with any operational, reporting, or other requirements under this
6 gaming agreement shall justify termination of operation of video
7 lottery terminals on the Tribe's Indian lands. The Tribe shall be
8 entitled to notice and a hearing on the compliance issue as set
9 forth under Chapter 466, Texas Government Code, and accompanying
10 rules of the commission. If the Tribe does not remedy the
11 noncompliance issue within 180 days of the termination or 60 days
12 after a final decision of the commission that the Tribe is out of
13 compliance, then this gaming agreement shall terminate without
14 penalty against the commission or the State.

15 Sec. 18.3. This gaming agreement shall remain in full force
16 and effect until the sooner of expiration of the term, termination
17 as provided herein, or termination by mutual consent of the
18 parties. In addition to the remedies set forth above, either party
19 may bring an action in federal court, after providing a 60-day
20 written notice of an opportunity to cure any alleged breach of this
21 gaming agreement, for a declaration that the other party has
22 materially breached this gaming agreement. On issuance of such a
23 declaration, the complaining party may unilaterally terminate this
24 gaming agreement on service of written notice on the other party.
25 In the event a federal court determines that it lacks jurisdiction
26 over such an action, the action may be brought in the district court
27 for the county in which the Tribe's video lottery terminal

1 establishment is located. The parties expressly waive their
2 immunity to suit for purposes of an action under this subsection,
3 subject to the qualifications stated herein. Nothing in this
4 provision shall be construed to limit other remedies available to
5 and contract penalties enforceable by the Texas Lottery Commission,
6 as expressly provided herein, in the event of the Tribe's material
7 breach. The Tribe and the State recognize and agree that the narrow
8 and enumerated provisions for such immediate remedies and
9 enforcement by the State are necessary to protect the public
10 health, safety, and welfare and the integrity of the video lottery.

11 SECTION 19.0. AMENDMENTS; RENEGOTIATIONS.

12 Sec. 19.1. The terms and conditions of this gaming
13 agreement may be amended at any time by the mutual and written
14 agreement of both parties. Any such amendment, however, shall
15 require ratification and approval by act of the Texas Legislature.

16 Sec. 19.2. This gaming agreement is subject to
17 renegotiation in the event the Tribe wishes to engage in forms of
18 Class III gaming other than those games authorized herein and
19 requests renegotiation for that purpose, provided that no such
20 renegotiation may be sought for 24 months following the effective
21 date of this gaming agreement.

22 SECTION 20.0. AUTHORITY TO EXECUTE.

23 This gaming agreement, as an enactment of the State
24 Legislature, is deemed approved by the State. On valid execution by
25 the Tribe and the Governor of the State, no further action by the
26 State or any State official is necessary for this gaming agreement
27 to take effect on any necessary approval by any federal agency as

1 required by applicable federal law, including publication in the
2 Federal Register, if required. The undersigned tribal official(s)
3 represents that he or she is duly authorized and has the authority
4 to execute this gaming agreement on behalf of the Tribe for whom he
5 or she is signing.

6 APPROVED:

7 [Name of Tribe]

8 _____ Date:_____

9 [CHIEF EXECUTIVE OFFICER]

10 State of Texas

11 _____ Date:_____

12 Governor of Texas

13 Sec. 466.605. NEGOTIATION FOR DIFFERENT GAMING AGREEMENT
14 TERMS. (a) Nothing in this subchapter may be construed to limit
15 the ability of a federally recognized Indian tribe to request that a
16 gaming agreement be negotiated with this state on terms that are
17 different from those set forth in the gaming agreement under
18 Section 466.604, or the ability of this state to engage in
19 negotiations and to reach agreement under any applicable federal
20 law.

21 (b) In offering to enter into a gaming agreement with Indian
22 tribes in this state under Section 466.604(b), and, except for
23 assessments by this state as provided in that section of the amounts
24 necessary to defray state costs of regulating activities as
25 provided under the gaming agreement, nothing in this chapter may be
26 construed to mean that:

27 (1) this state is imposing any tax, fee, charge, or

1 other assessment on an Indian tribe or on any other person or entity
2 authorized by an Indian tribe as a condition to engaging in a Class
3 III activity; or

4 (2) this state is refusing to enter into gaming
5 agreement negotiations based on the lack of authority of this state
6 or a political subdivision of this state to impose the tax, fee,
7 charge, or other assessment.

8 (c) If any federally recognized tribe with jurisdiction
9 over Indian lands in this state requests that the governor enter
10 into negotiations for a gaming agreement under federal law
11 applicable to the tribe, including the Indian Gaming Regulatory Act
12 (18 U.S.C. Section 1166 and 25 U.S.C. Section 2701 et seq.), on
13 terms different than those prescribed in the gaming agreement in
14 Section 466.604(b), the governor shall enter into those
15 negotiations under the federal law applicable to the tribe and
16 without preconditions and is authorized to reach agreement and
17 execute the agreement on behalf of this state, subject to
18 ratification by the legislature, provided that the gaming agreement
19 does not expand the scope of gaming expressly authorized under this
20 chapter and entitles the tribe only to operate video lottery
21 terminals in strict compliance with state law, unless otherwise
22 required by applicable federal law, and provided that the gaming
23 agreement includes the following provisions:

24 (1) a provision prescribing that the tribe is
25 authorized and allowed to engage only in the Class III gaming
26 activities expressly referred to in the gaming agreement or
27 authorized under Texas law and may not engage in Class III gaming

1 that is not expressly authorized in the agreement or under Texas
2 law;

3 (2) a provision prescribing that any operation or
4 possession by the tribe of any gaming devices not expressly
5 authorized under the gaming agreement or other Texas law, excluding
6 any Class II gaming authorized under applicable federal law, shall
7 be considered a material breach of the gaming agreement and justify
8 termination of the agreement and this state may bring an action in
9 federal court or, in the event the federal court declines
10 jurisdiction, in state court and shall be entitled to an injunction
11 prohibiting the continued operation of any unlawful gaming activity
12 on the tribal lands on a showing by a preponderance of evidence that
13 the breach has occurred;

14 (3) a provision waiving state and tribal sovereign
15 immunity for purposes of operation of video lottery terminals and
16 enforcement of the gaming agreement, provided that this state may
17 not waive sovereign immunity except to the extent expressly
18 permitted under Section 466.601;

19 (4) a provision establishing minimum internal control
20 standards at least as restrictive as those provided under this
21 subchapter and any standards set forth under applicable federal
22 law;

23 (5) a provision requiring any video lottery manager
24 doing business on Indian lands to indemnify and hold harmless the
25 commission, this state, and the members, officers, employees, and
26 authorized agents of the commission and this state from any and all
27 claims which may be asserted against a license or registration

1 holder, the commission, this state, or the employees arising from
2 the license or registration holder's participation in the video
3 lottery system authorized under the gaming agreement;

4 (6) a provision requiring the tribe to pay all
5 regulatory costs incurred by this state in relation to the
6 operation of video lottery terminals on the Indian lands of the
7 tribe to assure compliance with all federal and state law and all
8 provisions of the agreement;

9 (7) a provision recognizing the substantial benefit of
10 the exclusivity or other substantial benefits afforded to the Tribe
11 under the agreement and providing for the sharing of net terminal
12 revenue between the tribe and this state as payment for the
13 exclusivity or other substantial benefit;

14 (8) a provision establishing investigative and
15 licensing standards at least as restrictive as those provided under
16 this subchapter and under any applicable federal law;

17 (9) a provision requiring video lottery terminals and
18 facilities operating the video lottery terminals authorized under
19 the gaming agreement to be owned by the tribe;

20 (10) a provision requiring the video lottery
21 authorized by the gaming agreement to be licensed by the tribe in
22 conformity with the requirements of the agreement, the Tribal
23 Gaming Ordinance, and any applicable federal law, every five years
24 and the tribe shall review and renew the license, if appropriate,
25 and the tribe shall provide to the commission verification that
26 this requirement has been satisfied;

27 (11) a provision requiring the licensing of all video

1 lottery employees and any person extending financing, directly or
2 indirectly, to the tribe's video lottery operation before extending
3 that financing, provided that any person who is extending financing
4 at the time of the execution of the agreement must be licensed by
5 the tribe not later than the 90th day after the date of execution,
6 and the provision may allow the tribe, in its discretion, to exclude
7 from the licensing requirements of this section financing provided
8 by:

9 (A) a federally regulated or state-regulated
10 bank, savings and loan, or other federally or state-regulated
11 lending institution;

12 (B) any federal, state, or local government
13 agency; or

14 (C) any investor who, alone or in conjunction
15 with others, holds less than 10 percent of any outstanding
16 indebtedness evidenced by bonds issued by the tribe;

17 (12) a provision allowing the commission, under the
18 provisions of the agreement, to monitor the conduct of video
19 lottery games to ensure that the video lottery games are conducted
20 in compliance with the provisions of the agreement, and granting
21 the Department of Public Safety and agents of the commission
22 reasonable access to all areas of the facility related to the
23 conduct of video lottery games in order to properly monitor the
24 conduct of video lottery games;

25 (13) a provision specifying jurisdiction of tribal,
26 state, and federal courts with regard to matters arising from the
27 agreement or the operation of video lottery terminals, or both, as

1 authorized by the agreement and consistent with Section 466.601;

2 (14) a provision requiring the tribe to adopt and
3 comply with standards at least as stringent as state public health
4 standards for food and beverage handling at any facilities where
5 video lottery terminals are operated;

6 (15) a provision requiring the tribe to adopt and
7 comply with standards at least as stringent as federal water
8 quality and safe drinking water standards applicable in this state
9 at any facilities where video lottery terminals are operated, and
10 requiring the Tribe to allow for inspection and testing of water
11 quality by state or county health inspectors, as applicable, during
12 normal hours of operation, to assess compliance with these
13 standards, unless inspections and testing are made by an agency of
14 the United States pursuant to or by the Tribe under express
15 authorization of federal law to ensure compliance with federal
16 water quality and safe drinking water standards;

17 (16) a provision requiring the tribe to carry at least
18 \$5 million in public liability insurance for patron claims and
19 providing reasonable assurance that the claims will be promptly and
20 fairly adjudicated and that legitimate claims will be paid;

21 (17) a provision requiring the tribe to adopt and
22 comply with standards at least as stringent as federal workplace
23 and occupational health and safety standards for any facilities
24 where video lottery terminals are operated, and requiring the tribe
25 to allow for inspection of the workplaces by state inspectors
26 during normal hours of operation to assess compliance with these
27 standards, unless inspections are regularly made by an agency of

1 the United States government to ensure compliance with federal
2 workplace and occupational health and safety standards;

3 (18) a provision requiring the tribe to adopt and
4 comply with standards at least as stringent as federal laws and
5 state laws forbidding employers generally from discriminating in
6 the employment of persons to work for the facility operating video
7 lottery terminals on the basis of race, color, religion, national
8 origin, gender, sexual orientation, age, or disability, provided
9 that nothing in the provision precludes the tribe from giving a
10 preference in employment to Indians, pursuant to a duly adopted
11 tribal ordinance;

12 (19) a provision requiring the tribe to adopt and
13 comply with standards that are at least as stringent as state laws
14 prohibiting the use of proceeds of a check issued as a payment under
15 the Aid to Families with Dependent Children program administered
16 under Chapter 31, Human Resources Code, or a food stamp coupon
17 issued under the food stamp program administered under Chapter 33,
18 Human Resources Code, for gaming or other wagering;

19 (20) a provision requiring the tribe to adopt and
20 comply with standards at least as stringent as state laws governing
21 the extension of credit to, the cashing of checks for, and other
22 financial transactions with patrons calculated to protect players
23 from problem and pathological gambling;

24 (21) a provision requiring the tribe to participate in
25 state statutory programs related to employment in video lottery
26 terminal operations or instead of participation in this state
27 workers' compensation system, allowing the tribe to create and

1 maintain a system that provides redress for employee work-related
2 injuries through requiring insurance or self-insurance that
3 includes a scope of coverage, availability of an independent
4 medical examination, right to notice, hearings before an
5 independent tribunal, a means of enforcement against the employer,
6 and benefits comparable to those mandated for comparable employees
7 under state law;

8 (22) a provision requiring the tribe to make
9 reasonable provisions for adequate emergency fire, medical, and
10 related relief and disaster services for patrons and employees of
11 the video lottery terminal operations;

12 (23) a provision requiring the tribe to prohibit the
13 intentional, knowing, or reckless possession of a firearm, illegal
14 knife, club, explosive weapon, machine gun, firearm silencer,
15 knuckles, armor-piercing ammunition, a chemical dispensing device,
16 or a zip gun, as those terms are defined in Section 46.01, Penal
17 Code, at all times in the video lottery terminal establishment; and
18 requiring the defenses that apply to the possession of weapons on
19 the premises of a racetrack under Section 46.03, Penal Code, to
20 apply to possession of the weapons in a video lottery terminal
21 establishment; and requiring tribal security or tribal law
22 enforcement personnel to be allowed to possess firearms and clubs
23 at a video lottery terminal establishment as authorized by tribal
24 law;

25 (24) a provision requiring the tribe to agree that on
26 or before the effective date of the agreement, or not less than 90
27 days before the commencement of any project constructed to serve as

1 the site of video lottery terminals, the tribe shall adopt an
2 ordinance providing for the preparation, circulation, and
3 consideration by the tribe of environmental impact reports
4 concerning potential off-reservation environmental impacts of the
5 construction to be commenced on or after the effective date of the
6 agreement;

7 (25) a provision requiring the tribe to agree to
8 establish separate electronic funds transfer accounts for the
9 purposes of depositing money from video lottery terminal
10 operations, making payments to the commission, and receiving
11 payments from the commission, which must prohibit the tribe from
12 making payments to the commission in cash, but as authorized by the
13 commission may allow a tribe to make payments to the commission by
14 cashier's check;

15 (26) a provision requiring the tribe to adopt and
16 comply with the Bank Secrecy Act (31 U.S.C. Sections 5311-5314), as
17 amended, and all reporting requirements of the Internal Revenue
18 Service, insofar as the provisions and reporting requirements are
19 applicable to gaming facilities; and

20 (27) a provision requiring the tribe to collect and
21 remit to the comptroller state sales and use taxes and state taxes
22 on motor fuels, alcoholic beverages, cigarettes and tobacco
23 products, and hotel occupancy, other than taxes on the sale, use, or
24 consumption of an item by a member of the tribe.

25 (d) The legislature finds that, in any proceeding described
26 by Subsection (c)(2), irreparable injury and inadequate remedy at
27 law shall be presumed once this state has demonstrated the

1 violation has occurred. If this state does not seek an injunction
2 for such a material breach of the gaming agreement, the tribe agrees
3 to pay a contract penalty of \$10,000 per day for every day the
4 violation or breach continues. If the violation or breach is not
5 cured within 10 days, this state may bring an action to enjoin the
6 unlawful conduct.

7 Sec. 466.606. IMPLEMENTATION OF GAMING AGREEMENT. The
8 governor shall execute any documents that may be necessary to
9 implement a gaming agreement authorized under this subchapter.

10 Sec. 466.607. INCORPORATION INTO STATE LAW. The model
11 gaming agreement set out in Section 466.604(b) is hereby
12 incorporated into state law, and the operation of video lottery
13 terminals authorized under the agreement is expressly authorized as
14 a matter of state law for any Indian tribe entering into the gaming
15 agreement in accordance with this subchapter.

16 Sec. 466.608. REGULATORY MONEY RECEIVED UNDER GAMING
17 AGREEMENT. All money received by the commission under a gaming
18 agreement for regulatory costs incurred relative to tribal
19 operations of video lottery terminals shall be deposited to the
20 credit of the state video lottery account to defray expenses of the
21 commission incurred in the oversight, compliance with, and
22 enforcement of video lottery terminal operations conducted
23 pursuant to a gaming agreement.

24 Sec. 466.609. INJUNCTION; CIVIL PENALTY. (a) If the
25 commission, the appropriate governing body for an Indian tribe, or
26 the attorney general has reason to believe that this chapter has
27 been or is about to be violated, the attorney general may petition a

1 court for appropriate injunctive relief to restrain the violation.
2 Filing of the petition does not waive applicable sovereign
3 immunity.

4 (b) Venue for an action by this state seeking injunctive
5 relief is in a district court in Travis County.

6 (c) If the court finds that this chapter has been knowingly
7 violated, the court shall order all proceeds from any illegal
8 gambling to be forfeited to the appropriate governing body as a
9 civil penalty.

10 (d) The remedies provided herein are not exclusive. The
11 commission may suspend or revoke a license, impose an
12 administrative penalty, or seek injunctive or civil penalties or
13 both, depending on the severity of the violation.

14 SECTION 1.34. Section 467.001, Government Code, is amended
15 by amending Subdivision (9) and adding Subdivision (12) to read as
16 follows:

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

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

24 (B) an employee of a video lottery terminal
25 provider, video lottery central system provider, or person that
26 manufactures, distributes, sells, or produces lottery equipment,
27 supplies, services, or advertising or video lottery equipment or

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

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

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

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

17 SECTION 1.35. Section 467.031, Government Code, is amended
18 to read as follows:

19 Sec. 467.031. DIVISIONS. The commission shall establish
20 separate divisions to oversee bingo and the state lottery. The
21 commission shall create a division to oversee video lottery and
22 delegate responsibilities in the administration of Chapter 466 to
23 the executive director, the director of the appropriate division,
24 and the division's staff; provided, however, that the commission
25 may not delegate the following actions:

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

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

4 (3) a final determination that Chapter 466 has been
5 violated; or

6 (4) a final determination or imposition of an
7 assessment of fines or penalties under a law administered by the
8 commission.

9 SECTION 1.36. Section 467.035(a), Government Code, is
10 amended to read as follows:

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

13 (1) a bingo commercial lessor, bingo distributor, or
14 bingo manufacturer; or

15 (2) a lottery sales agency, ~~or~~ a lottery operator, a
16 video lottery retailer, a video lottery manager, a video lottery
17 terminal provider, a video lottery central system provider, or a
18 manufacturer of video lottery games.

19 SECTION 1.37. Section 411.108, Government Code, is amended
20 by adding Subsection (d) to read as follows:

21 (d) The Texas Lottery Commission may obtain from the
22 department, subject to an interagency agreement entered into under
23 Section 466.020(d) or 466.206, criminal history record information
24 maintained by the department that relates to any natural person,
25 corporation, association, trust, partnership, limited partnership,
26 joint venture, government, subsidiary, or other entity, regardless
27 of its form, structure, or nature that the commission has the

1 authority to investigate under Chapter 466 as related to the
2 commission's operation and oversight of video lottery. Criminal
3 history record information obtained by the commission under this
4 subsection may be released or disclosed only as provided in
5 Sections 466.022(d) and 466.206.

6 SECTION 1.38. Section 6.08, Texas Racing Act (Article 179e,
7 Vernon's Texas Civil Statutes), is amended by adding Subsection (c)
8 to read as follows:

9 (c) The amount deposited in purse accounts from simulcast
10 pools under Subsection (b)(3) of this section, other than the
11 amount deposited to purse accounts for breeds other than
12 thoroughbred and quarter horses, shall be deposited as follows:

13 (1) 70 percent in the purse account for thoroughbreds;

14 and

15 (2) 30 percent in the purse account for quarter
16 horses.

17 SECTION 1.39. Article 6, Texas Racing Act (Article 179e,
18 Vernon's Texas Civil Statutes), is amended by adding Section 6.095
19 to read as follows:

20 Sec. 6.095. SPECIAL ALLOCATION TO PURSES. (a) Each
21 licensed racetrack that is a video lottery terminal establishment
22 under Subchapter K, Chapter 466, Government Code, shall set aside
23 _____ percent of the share of the video lottery proceeds received by
24 the racetrack under Section 466.590(a)(1), Government Code, for
25 purses as provided by this section.

26 (b) At a greyhound racetrack, all money set aside as
27 provided by Subsection (a) of this section shall be deposited in an

1 account to fund purses.

2 (c) At a horse racetrack a percentage of the money set aside
3 as provided by Subsection (a) of this section shall be used for
4 purses for breeds other than thoroughbreds or quarter horses that
5 is the same as the percentage of money from pari-mutuel pools at the
6 racetrack that is set aside for purses for those breeds under this
7 Act. Of the remaining money:

8 (1) ___ percent shall be deposited in an account to
9 fund purses for thoroughbreds; and

10 (2) ___ percent shall be deposited in an account to
11 fund purses for quarter horses.

12 SECTION 1.40. Article 6, Texas Racing Act (Article 179e,
13 Vernon's Texas Civil Statutes), is amended by adding Section 6.20
14 to read as follows:

15 Sec. 6.20. LIVE RACING REQUIREMENT. (a) Except as provided
16 by Subsections (b) and (c) of this section, a person who holds a
17 Class 1 racetrack that is a video lottery terminal establishment
18 under Subchapter K, Chapter 466, Government Code, shall conduct:

19 (1) for each breed, not less than the number of live
20 racing days conducted by the racetrack for that breed during the
21 previous calendar year; or

22 (2) for quarter horses and thoroughbreds, not less
23 than 50 live race days or 500 live races.

24 (b) A person who holds a Class 1 racetrack license may
25 conduct fewer live racing days than required by Subsection (a) of
26 this section if the racetrack, the affected breed registry, and the
27 recognized horseman's organization enter into a written agreement

1 to conduct fewer races.

2 (c) A Class 1 racetrack that is a video lottery terminal
3 establishment under Subchapter K, Chapter 466, Government Code, and
4 that did not conduct live racing days in the calendar year before
5 the calendar year in which the racetrack began to conduct video
6 lottery games shall conduct not less than _____ live racing days in
7 the calendar year in which the racetrack begins to conduct video
8 lottery games. In subsequent calendar years, Subsection (a) of
9 this section applies to the racetrack.

10 SECTION 1.41. The Legislature finds and declares the
11 following:

12 (1) This state is facing a crisis in providing funding
13 for state governmental programs. Contingent on the approval of the
14 voters, in order to generate additional revenue to fund state
15 governmental programs, a limited and narrow exception to the
16 constitutional prohibition on lotteries has been proposed to
17 authorize a state-controlled and state-operated video lottery
18 system in accordance with this article.

19 (2) In light of the financial emergency faced by the
20 state and the need to fund state governmental programs, in the event
21 the voters approve this limited state-controlled and
22 state-operated video lottery system, the Texas Lottery Commission
23 must be authorized to commence operation of the video lottery
24 system in accordance with this article at the earliest possible
25 date, consistent with the intent of the voters and legislative
26 directive.

27 (3) The implementation of the video lottery system

1 will require significant time for application investigations and
2 determinations and for video lottery terminal and video lottery
3 central system providers and manufacturers of video lottery games
4 to develop prototypes for testing for the video lottery central
5 system and video lottery terminals and games.

6 (4) The state's budget crisis constitutes an imminent
7 peril to the public welfare, requiring the adoption of rules and
8 authorization for the Texas Lottery Commission to conduct certain
9 limited pre-implementation activities related to the establishment
10 of the video lottery system to promote and ensure the integrity,
11 security, honesty, and fairness of the operation and administration
12 of the video lottery system.

13 (5) In order to commence operation of the video
14 lottery system at the earliest possible date and to maintain the
15 integrity of state-controlled and state-operated video lottery
16 established by this article, the Texas Lottery Commission may
17 conduct limited pre-implementation acts before the constitutional
18 amendment proposed by the 79th Legislature, Regular Session, 2005,
19 to authorize the state video lottery system is submitted to the
20 voters for approval.

21 SECTION 1.42. (a) As soon as practicable after the
22 constitutional amendment to authorize the state video lottery
23 system proposed by the 79th Legislature, Regular Session, 2005, is
24 approved by the voters and becomes effective, the Texas Lottery
25 Commission shall adopt the rules necessary to implement video
26 lottery in accordance with Subchapter K, Chapter 466, Government
27 Code, as added by this Act.

1 (b) Before the proposed constitutional amendment to
2 legalize the state video lottery system is submitted to the voters,
3 the Texas Lottery Commission may expend money from the commission's
4 appropriation for the 2006-2007 biennium for purposes of conducting
5 pre-implementation activities to establish the state video lottery
6 system in accordance with Subchapter K, Chapter 466, Government
7 Code, as added by this Act. Notwithstanding Section 466.355,
8 Government Code, the money authorized to be expended under this
9 section may be withdrawn from the state lottery account to fund the
10 establishment of the state video lottery system.

11 (c) Before the proposed constitutional amendment to
12 authorize the state video lottery system is submitted to the
13 voters, the Texas Lottery Commission may develop and approve forms
14 for applications for licensing and registration required under
15 Subchapter K, Chapter 466, Government Code, as added by this Act.

16 (d) Before the proposed constitutional amendment to
17 authorize the state video lottery system is submitted to the
18 voters, the Texas Lottery Commission may accept pre-implementation
19 applications for video lottery retailers and video lottery managers
20 under Subchapter K, Chapter 466, Government Code, as added by this
21 Act. On receipt of a complete application, completion of all
22 investigations, and submittal of the nonrefundable investigatory
23 fees the commission requires consistent with Subchapter K, Chapter
24 466, Government Code, as added by this Act, the commission may make
25 preliminary findings of suitability for an applicant and location
26 of a video lottery terminal establishment. If the commission
27 determines that all the requirements under Subchapter K, Chapter

1 466, Government Code, have been satisfied, the commission may issue
2 a letter advising the applicant of the status of approval of the
3 application pending approval by the voters of the proposed
4 constitutional amendment to authorize the state video lottery
5 system. If the commission determines that any requirements under
6 Subchapter K, Chapter 466, Government Code, have not been
7 satisfied, the commission may request additional information or
8 conduct further investigations the commission considers necessary
9 and may issue a letter advising the applicant of the status of the
10 application.

11 (e) Before the proposed constitutional amendment to
12 authorize the state video lottery system is submitted to the
13 voters, the Texas Lottery Commission may request and receive
14 information related to applications for licensing and registration
15 under Subchapter K, Chapter 466, Government Code, as added by this
16 Act. An applicant's failure to comply with any requests made by the
17 Texas Lottery Commission under this subsection may be considered
18 grounds for denial of an application.

19 (f) The Texas Lottery Commission may not issue any license,
20 registration, or temporary license related to the state video
21 lottery system under Subchapter K, Chapter 466, Government Code, as
22 added by this Act, unless and until the constitutional amendment
23 authorizing the state video lottery system is approved by the
24 voters and becomes effective.

25 (g) Before the proposed constitutional amendment to
26 authorize the state video lottery system is submitted to the
27 voters, the Texas Lottery Commission may conduct investigations and

1 collect investigative fees related to information requested and
2 received for pre-implementation applications under this section
3 and necessary for the commission's evaluation and determination of
4 an application for any licensing, registration, or commission
5 approval required under Subchapter K, Chapter 466, Government Code,
6 as added by this Act.

7 (h) Before the proposed constitutional amendment to
8 authorize the state video lottery system is submitted to the
9 voters, the Texas Lottery Commission may conduct preregistration of
10 potential video lottery terminal providers. To qualify for
11 preregistration under this subsection, an applicant must satisfy
12 the minimum application requirements under Section 466.512,
13 Government Code, as added by this Act, except that the application
14 fee required under Section 466.513(a), Government Code, as added by
15 this Act, is not due until the applicant files an application for
16 registration under Subchapter K, Chapter 466, Government Code, as
17 added by this Act. A preregistration application must be
18 accompanied by a nonrefundable deposit to the Texas Lottery
19 Commission in the amount of \$25,000. A preregistration applicant
20 shall submit additional money not later than the 10th day after the
21 date the applicant receives notice from the commission that it has
22 incurred actual costs for the preregistration investigation in
23 excess of the initial deposit required under this subsection. If
24 the commission does not receive the additional money from the
25 applicant on or before the 15th day after the date the applicant
26 receives the commission's notice, the commission shall suspend the
27 application until the money is received by the commission. Any

1 deposit or other nonrefundable money provided under this subsection
2 shall be credited toward an application fee required under Section
3 466.513(a), Government Code, as added by this Act.

4 (i) The Texas Lottery Commission may not register any video
5 lottery terminal providers unless and until the constitutional
6 amendment authorizing the state video lottery system is approved by
7 the voters and becomes effective.

8 (j) Notwithstanding Section 466.513, Government Code, as
9 added by this Act, a video lottery terminal provider that has been
10 preregistered by the Texas Lottery Commission in accordance with
11 this section, a video lottery central system provider, or a
12 manufacturer of video lottery games, under a contract with the
13 commission, may manufacture and test prototypes of or existing
14 video lottery equipment for a video lottery central system, video
15 lottery terminals, and video lottery games for the commission's
16 consideration.

17 (k) Before the proposed constitutional amendment to
18 authorize the state video lottery system is submitted to the
19 voters, the Texas Lottery Commission may negotiate contracts with
20 preregistered video lottery terminal providers. The commission may
21 enter into contracts with preregistered video lottery terminal
22 providers, video lottery central system providers, and
23 manufacturers of video lottery games as required for the creation
24 and testing of a video lottery central system, video lottery
25 terminals, and video lottery games for the commission's
26 consideration.

27 (l) Before the proposed constitutional amendment to

1 authorize the state video lottery system is submitted to the
2 voters, the Texas Lottery Commission may negotiate and enter
3 contracts as necessary to establish the video lottery system.

4 (m) Before the proposed constitutional amendment to
5 authorize the state video lottery system is submitted to the
6 voters, the Texas Lottery Commission may employ additional
7 full-time equivalent employees to administer this Act and establish
8 the video lottery system.

9 SECTION 1.43. Sections 1.01 through 1.40 of this article
10 take effect on the date the amendment to Section 47, Article III,
11 Texas Constitution, authorizing a state video lottery system to
12 operate video lottery games at racetracks and on Indian lands and
13 authorizing casino gaming at 12 tourist destination locations in
14 this state and on Indian lands proposed by the 79th Legislature,
15 Regular Session, 2005, becomes effective. Sections 1.41 and 1.42
16 of this article and this section take effect immediately if this Act
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, Sections 1.41 and 1.42 of this article and this section take
21 effect on the 91st day after the last day of the legislative
22 session. Sections 1.41 and 1.42(m) of this article expire March 1,
23 2006.

24 ARTICLE 2. ESTABLISHMENT OF TEXAS GAMING AND BOXING COMMISSION AND
25 AUTHORIZATION OF CASINO GAMING

26 SECTION 2.01. Subtitle A, Title 13, Occupations Code, is
27 amended by adding Chapter 2004 to read as follows:

1 CHAPTER 2004. TEXAS GAMING AND BOXING COMMISSION AND CASINO

2 GAMBLING

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 2004.001. SHORT TITLE. This chapter may be cited as
5 the Texas Economic Development and Gaming Control Act.

6 Sec. 2004.002. PUBLIC POLICY. (a) All casino gaming that
7 is conducted in this state and that is authorized by law shall be
8 regulated and licensed under this chapter, unless the legislature
9 or federal law specifically provides otherwise.

10 (b) The legislature hereby finds, and declares it to be the
11 public policy of this state, that:

12 (1) the development of regulated limited casino gaming
13 in the state will benefit the general welfare of the people of this
14 state by enhancing investment, development, and tourism in this
15 state, resulting in new jobs and additional revenues to the state;

16 (2) the conduct of regulated casino gaming in a
17 limited number of casinos will not harm the people of this state;

18 (3) the regulation of gaming in this state is
19 important to ensure that gaming is:

20 (A) conducted honestly and competitively; and

21 (B) free from criminal and corruptive elements;

22 (4) public confidence and trust can be maintained only
23 by strict regulation of all persons, locations, practices,
24 associations, and activities related to the conduct of gaming and
25 the casino service industry;

26 (5) persons owning any direct or indirect material
27 interest in a casino should be licensed and controlled to protect

1 the public health, safety, morals, good order, and general welfare
2 of the people of this state;

3 (6) certain operators and employees of casinos should
4 be regulated, licensed, and controlled to accomplish and promote
5 these public policies while protecting the public health, safety,
6 morals, good order, and general welfare of the people of this state;

7 (7) certain persons engaging in the casino service
8 industry should be regulated, licensed, and controlled to
9 accomplish and promote these public policies while protecting the
10 public health, safety, morals, good order, and general welfare of
11 the people of this state; and

12 (8) it is the intent of this chapter, where possible,
13 to use the resources, goods, labor, and services of the people of
14 this state in the operation and construction of casinos and
15 casino-related amenities to the extent allowable by law.

16 Sec. 2004.003. DEFINITIONS. In this chapter:

17 (1) "Affiliate" means a person who, directly or
18 indirectly through one or more intermediaries, controls, is
19 controlled by, or is under common control with another person. A
20 person is considered to control a company if the person
21 beneficially owns more than a five percent equity interest in the
22 company under the beneficial ownership rules adopted by the
23 commission.

24 (2) "Applicant" means a person who has applied for an
25 owner's license, an operator's license, an occupational license, a
26 manufacturer's license, a casino service license, or a
27 qualification to hold an equity interest or creditor interest in an

1 owner licensee or who has applied for the approval of any act or
2 transaction for which approval is required or permitted under this
3 chapter.

4 (3) "Associated equipment" means any equipment or
5 mechanical, electromechanical, or electronic contrivance,
6 component, or machine used in connection with gaming or with any
7 game that would not otherwise be classified as a gaming device,
8 including dice, playing cards, links connecting progressive slot
9 machines, equipment affecting the proper reporting of gross gaming
10 revenue, computerized systems or software for monitoring slot
11 machines, and devices for weighing or counting money.

12 (4) "Casino" means a facility at which gambling games
13 are conducted for profit that are not authorized by a law other than
14 this chapter.

15 (5) "Casino operator" means a person, other than the
16 owner licensee, who contractually agrees to provide operational and
17 managerial services for the operation of a casino on behalf of the
18 owner licensee in return for receiving a payment based in whole or
19 part on profits or receipts from the casino.

20 (6) "Casino service" means the provision of goods or
21 services, including security service and gaming schools, to a
22 person holding an owner's or operator's license under this chapter,
23 other than a service requiring a manufacturer's license.

24 (7) "Casino service license" means a license issued
25 under Section 2004.252.

26 (8) "Casino service licensee" means the holder of a
27 casino service license.

1 (9) "Commission" means the Texas Gaming and Boxing
2 Commission.

3 (10) "Commission member" means a member of the
4 commission.

5 (11) "Company" means a corporation, partnership,
6 limited partnership, trust, association, joint stock company,
7 joint venture, limited liability company, or other form of business
8 organization, but does not include a sole proprietorship or natural
9 person.

10 (12) "Creditor interest" means a right or claim of any
11 character against a person for the payment of money borrowed,
12 whether secured or unsecured, matured or unmatured, liquidated or
13 absolute, fixed or contingent, and includes an obligation based on
14 the person's profits or receipts.

15 (13) "Director" means a member of the board of
16 directors of a corporation and a person performing similar
17 functions with respect to a company other than a corporation.

18 (14) "Equity interest" means a proprietary interest,
19 right, or claim allowing the holder either to vote with respect to
20 matters of organizational governance or to participate in the
21 profits and residual assets of a company, including common and
22 preferred stock in a corporation, a general or limited partnership
23 interest in a partnership, a similar interest in any other form of
24 business organization, and a warrant, right, or similar interest
25 convertible into, or to subscribe for, a proprietary right or
26 claim, with or without the payment of additional consideration.

27 (15) "Executive director" means the executive

1 director of the commission.

2 (16) "Family" means, with respect to a natural person,
3 any other natural person related to the person within the second
4 degree by affinity or the third degree by consanguinity, as
5 determined under Subchapter B, Chapter 573, Government Code.

6 (17) "Game" or "gambling game":

7 (A) means any game or similar activity that
8 involves the making of a bet, as defined by Section 47.01, Penal
9 Code, for consideration, and includes:

10 (i) a banking or percentage game played
11 with cards, dice, or a mechanical, electromechanical, or electronic
12 device or machine for money, property, checks, credit, or a
13 representative of value, including roulette, keno, twenty-one,
14 blackjack, craps, poker, chuck-a-luck (dai shu), wheel of fortune,
15 chemin de fer, baccarat, pai gow, slot machine, any other
16 electronic game of chance, and any other game or device approved by
17 the commission;

18 (ii) simulcast wagering on pari-mutuel
19 greyhound or horse racing;

20 (iii) the maintenance of a race book; and

21 (iv) any other method of effecting a wager
22 approved by the commission; and

23 (B) does not include:

24 (i) bingo, as authorized by Chapter 2001;

25 (ii) charitable raffles, as authorized by
26 Chapter 2002; or

27 (iii) the state lottery or video lottery

1 conducted under Chapter 466, Government Code.

2 (18) "Gaming" or "gambling" means to deal, operate,
3 carry on, conduct, maintain, or expose for play a game in a casino.

4 (19) "Gaming device" means a mechanical,
5 electromechanical, or electronic contrivance, component, or
6 machine used in connection with gaming or a game that affects the
7 result of a wager by determining win or loss. The term includes a
8 system for processing information that can alter the normal
9 criteria of random selection, affect the operation of a game, or
10 determine the outcome of a game.

11 (20) "Gaming employee":

12 (A) means an individual directly involved in the
13 operation or conduct of gaming in a casino performing a service in a
14 capacity that the commission finds appropriate for occupational
15 licensing under Section 2004.202 and includes:

16 (i) a boxman, a cashier, change personnel,
17 counting room personnel, a dealer, a floor person, a host empowered
18 to extend credit or complimentary services, a keno runner, a keno
19 writer, a machine mechanic, or security personnel;

20 (ii) a shift or pit boss or a supervisor or
21 manager involved in gaming activities;

22 (iii) accounting or internal auditing
23 personnel directly involved in recordkeeping or the examination of
24 records generated from gaming activities; and

25 (iv) a junketeer or other independent agent
26 whose compensation is based on how much a patron wagers or loses or
27 who is paid per patron more than the price of admission; and

1 (B) does not include bartenders, cocktail
2 waitresses, or other individuals engaged exclusively in preparing
3 or serving food or beverages or individuals providing nominal,
4 complimentary, or maintenance services.

5 (21) "Gross gaming revenue":

6 (A) means the total of the following, less the
7 total of all cash paid out as losses to patrons and those amounts
8 paid to purchase annuities to fund losses paid to patrons by
9 independent financial institutions and items made deductible as
10 losses under Section 2004.452:

11 (i) cash received by an owner licensee as
12 winnings;

13 (ii) cash received by an owner licensee in
14 payment for credit extended by the owner licensee to a patron for
15 the purposes of gaming; and

16 (iii) compensation received by an owner
17 licensee for conducting any game in which the owner licensee is not
18 a party to a wager; and

19 (B) does not include:

20 (i) counterfeit money or tokens;

21 (ii) coins of other countries that are
22 received in slot machines or gaming devices;

23 (iii) cash taken in fraudulent acts
24 perpetrated against an owner licensee for which the licensee is not
25 reimbursed; or

26 (iv) cash received as entry fees for
27 contests or tournaments in which the patrons compete for prizes.

1 (22) "Hearing examiner" means a person authorized by
2 the commission to conduct hearings.

3 (23) "Institutional investor" means a person, other
4 than a state or federal pension plan, that meets the requirements of
5 a "qualified institutional buyer" as defined in Section 144A,
6 Securities Act of 1933 (17 C.F.R. Section 230.144A), as amended,
7 and is:

8 (A) a bank as defined in Section 3(a)(6),
9 Securities Exchange Act of 1934 (15 U.S.C. Section 78c), as
10 amended;

11 (B) an insurance company as defined in Section
12 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section 80a-2),
13 as amended;

14 (C) an investment company registered under
15 Section 8, Investment Company Act of 1940 (15 U.S.C. Section
16 80a-8), as amended;

17 (D) an investment adviser registered under
18 Section 203, Investment Advisers Act of 1940 (15 U.S.C. Section
19 80b-3), as amended;

20 (E) a collective trust fund as defined by Section
21 3(c)(11), Investment Company Act of 1940 (15 U.S.C. Section 80a-3),
22 as amended;

23 (F) an employee benefit plan or pension fund that
24 is subject to the Employee Retirement Income Security Act of 1974
25 (29 U.S.C. Section 1001 et seq.), as amended, excluding an employee
26 benefit plan or pension fund sponsored by a publicly traded
27 corporation registered with the commission;

1 (G) a state or federal government pension plan;

2 (H) a group composed entirely of persons
3 specified in Paragraphs (A)-(F); or

4 (I) such other persons as the commission may
5 determine for reasons consistent with the policies expressed in
6 Section 2004.002.

7 (24) "Key executive" means a corporation's directors
8 and executive officers, a partnership's general partners, a trust's
9 trustee, a joint venture's managing venturers, and each person
10 possessing similar responsibilities and authorities in any other
11 form of business organization.

12 (25) "License" means an owner's license, an operator's
13 license, an occupational license, a casino service license, a
14 manufacturer's license, or a qualification to hold an equity
15 interest or creditor interest in an owner's licensee.

16 (26) "Licensee" means a person holding a license
17 issued under this chapter.

18 (27) "Manufacturer licensee" means the holder of a
19 manufacturer's license.

20 (28) "Manufacturer's license" means a license issued
21 under Section 2004.251.

22 (29) "Negotiable instrument" means a writing that
23 evidences a transaction between a natural person and an owner
24 licensee at the time of the transaction whose gaming chips, tokens,
25 or currency are exchanged for the instrument and includes a writing
26 taken in consolidation, redemption, or payment of a prior
27 instrument.

1 (30) "Occupational license" means a license issued
2 under Section 2004.202.

3 (31) "Occupational licensee" means the holder of an
4 occupational license.

5 (32) "Operator's license" means a license issued under
6 Section 2004.201.

7 (33) "Operator licensee" means the holder of an
8 operator's license.

9 (34) "Owner's license" means a license issued under
10 Section 2004.152 or 2004.153.

11 (35) "Owner licensee" means a person holding an
12 owner's license.

13 (36) "Person that has a significant financial interest
14 in the lottery" means:

15 (A) a person or a board member, officer, trustee,
16 or general partner of a person that manufactures, distributes,
17 sells, or produces lottery equipment, video lottery equipment,
18 video lottery games, video lottery central systems, gaming
19 equipment, supplies, services, or advertising;

20 (B) an employee of a video lottery terminal
21 provider, video lottery central system provider, casino, or person
22 that manufactures, distributes, sells, or produces lottery or
23 gaming equipment, supplies, services, or advertising or video
24 lottery or casino equipment or games if the employee is directly
25 involved in the manufacturing, distribution, selling, or
26 production of lottery or gaming equipment, supplies, services, or
27 advertising or video lottery or casino equipment or games;

1 (C) a person or a board member, officer, trustee,
2 or general partner of a person that has made a bid to operate the
3 lottery in the preceding two years or that intends to make a bid to
4 operate the lottery or an employee of the person if the employee is
5 directly involved in making the bid; or

6 (D) a sales agent, video lottery retailer, video
7 lottery manager, video lottery terminal provider, video lottery
8 central system provider, or person licensed under this chapter.

9 (37) "Principal manager" means a person who, as
10 determined under the rules of the commission, holds or exercises
11 managerial, supervisory, or policy-making authority over the
12 management or operation of a gaming activity or casino service that
13 in the judgment of the commission warrants the occupational
14 licensing as a principal manager for the protection of the public
15 interest. "Principal manager" includes a key executive of a
16 licensee that is a company and each person controlling a licensee
17 that is a company.

18 (38) "Project commitment" means, with respect to an
19 application for an owner's license for a proposed casino, the total
20 cost of constructing and furnishing the casino and any related
21 hotel and entertainment, retail, and parking facilities, including
22 the cost of acquiring and preparing the underlying real estate, the
23 cost of obtaining requisite permits and approvals, the cost of
24 acquiring and installing slot machines, gaming devices, and
25 associated equipment, and fees for professional services and
26 financing.

27 (39) "Publicly traded company":

1 (A) means a company that:

2 (i) has one or more classes of securities
3 registered under Section 12, Securities Exchange Act of 1934 (15
4 U.S.C. Section 781), as amended; or

5 (ii) is an issuer subject to Section 15(d),
6 Securities Exchange Act of 1934 (15 U.S.C. Section 78o), as
7 amended; and

8 (B) does not include a company or other legal
9 entity that has securities registered or is considered to be an
10 issuer solely because it guaranteed a security issued by an
11 affiliate under a public offering or is considered to be a co-issuer
12 of a public offering of securities under 17 C.F.R. Section 230.140.

13 (40) "Race book" means wagers accepted on the outcome
14 of an event held at a greyhound or horse racetrack that uses the
15 pari-mutuel system of wagering.

16 (41) "Slot machine" means a mechanical, electrical, or
17 other device or machine that, on insertion of a coin, token, or
18 similar object or on payment of consideration, is available to play
19 or operate, the play or operation of which, in whole or part by the
20 element of chance, may deliver or entitle the person playing or
21 operating the machine to receive cash, premiums, merchandise,
22 tokens, or any other thing of value, whether the payoff is made
23 automatically from the machine or is made in another manner.

24 Sec. 2004.004. EXEMPTION FROM FEDERAL STATUTES. (a) Under
25 Section 2, 64 Stat. 1134 (15 U.S.C. Section 1172), as amended, this
26 state declares that this state is exempt from that section.

27 (b) All shipments of gaming devices into this state,

1 including slot machines, the registering, recording, and labeling
2 of which has been performed by the supplier under Sections 3 and 4
3 of the act of the Congress of the United States entitled "An act to
4 prohibit transportation of gambling devices in interstate and
5 foreign commerce," approved January 2, 1951, Chapter 1194, 64 Stat.
6 1134, designated as 15 U.S.C. Sections 1171-1178, are legal
7 shipments of the devices into this state.

8 Sec. 2004.005. APPLICATION OF SUNSET ACT. (a) The Texas
9 Gaming and Boxing Commission is subject to Chapter 325, Government
10 Code (Texas Sunset Act). Unless continued in existence as provided
11 by that chapter, the commission is abolished and this chapter
12 expires September 1, 2017.

13 (b) On the date the commission is abolished under Subsection
14 (a), the following statutes are repealed:

15 (1) Chapter 2001 of this code;

16 (2) Chapter 2052 of this code;

17 (3) Chapter 466, Government Code; and

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

20 [Sections 2004.006-2004.050 reserved for expansion]

21 SUBCHAPTER B. TEXAS GAMING AND BOXING COMMISSION

22 Sec. 2004.051. COMMISSION; MEMBERSHIP. (a) The Texas
23 Gaming and Boxing Commission is composed of seven members. Six
24 members shall be appointed by the governor with the advice and
25 consent of the senate. The chairman of the Public Safety Commission
26 is an ex officio voting member of the commission.

27 (b) Appointments to the commission shall be made without

1 regard to the race, color, disability, sex, religion, age, or
2 national origin of the appointee.

3 Sec. 2004.052. QUALIFICATIONS OF COMMISSION MEMBERS. (a)
4 To be eligible for appointment to the commission, an individual:

5 (1) must be a citizen of the United States;

6 (2) must have resided in this state for the two years
7 preceding the date of the person's appointment;

8 (3) must submit a financial statement that contains
9 the information required by Chapter 572, Government Code;

10 (4) may not own a financial or other interest in a
11 person engaged in the conduct of gaming or the provision of casino
12 services, or in a security issued by that person, or be related
13 within the second degree by affinity or the third degree by
14 consanguinity, as determined under Chapter 573, Government Code, to
15 an individual who owns a financial or other interest or security;

16 (5) may not be an applicant for or holder of a license
17 under this chapter or hold an equity interest or creditor interest
18 in an owner licensee requiring qualification under Section
19 2004.163; and

20 (6) may not be a member of the governing body of a
21 political subdivision of this state.

22 (b) A person holding an elective office or an officer or
23 official of a political party is not eligible for appointment to the
24 commission.

25 (c) A person is not eligible for appointment as a member of
26 the commission if the person or the person's spouse:

27 (1) is registered, certified, or licensed by an

1 occupational regulatory agency in the field of gaming;

2 (2) is employed by or participates in the management
3 of a business entity or other organization regulated by the
4 commission or receiving funds from the commission;

5 (3) owns or controls, directly or indirectly, more
6 than a 10 percent interest in a business entity or other
7 organization regulated by the commission or receiving funds from
8 the commission; or

9 (4) uses or receives a substantial amount of tangible
10 goods, services, or money from the commission, other than
11 compensation or reimbursement authorized by law for commission
12 membership, attendance, or expenses.

13 Sec. 2004.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)
14 In this section, "Texas trade association" means a cooperative and
15 voluntarily joined association of business or professional
16 competitors in this state designed to assist its members and its
17 industry or profession in dealing with mutual business or
18 professional problems and in promoting their common interest.

19 (b) A person may not be a member of the commission or an
20 employee of the commission employed in a "bona fide executive,
21 administrative, or professional capacity," as that phrase is used
22 for purposes of establishing an exemption to the overtime
23 provisions of the federal Fair Labor Standards Act of 1938 (29
24 U.S.C. Section 201 et seq.) if:

25 (1) the person is an officer, employee, manager, or
26 paid consultant of a Texas trade association in the field of gaming;
27 or

1 (2) the person's spouse is an officer, manager, or paid
2 consultant of a Texas trade association in the field of gaming.

3 (c) A person may not be a member of the commission or act as
4 general counsel to the commission if the person is required to
5 register as a lobbyist under Chapter 305, Government Code, because
6 of the person's activities for compensation on behalf of a
7 profession related to the operation of the commission.

8 Sec. 2004.054. TERMS; VACANCIES. (a) Appointed members of
9 the commission serve staggered six-year terms. The terms of two
10 members expire on February 1 of each odd-numbered year.

11 (b) A vacancy in an appointive position on the commission
12 shall be filled by appointment of the governor with the advice and
13 consent of the senate.

14 Sec. 2004.055. PRESIDING OFFICER. The governor shall
15 designate a member of the commission as presiding officer of the
16 commission to serve in that capacity at the pleasure of the
17 governor.

18 Sec. 2004.056. MEETINGS; OFFICIAL RECORD. (a) The
19 commission shall meet not less than six times each year.

20 (b) The commission may meet at other times at the call of the
21 presiding officer or as provided by commission rule.

22 (c) The commission shall keep an official record of all
23 commission meetings and proceedings.

24 Sec. 2004.057. GROUNDS FOR REMOVAL. (a) It is a ground for
25 removal from the commission that a member:

26 (1) does not have at the time of taking office the
27 qualifications required by Section 2004.052;

1 (2) does not maintain during service on the board the
2 qualifications required by Section 2004.052;

3 (3) is ineligible for membership under Section
4 2004.053;

5 (4) cannot, because of illness or disability,
6 discharge the member's duties for a substantial part of the member's
7 term; or

8 (5) is absent from more than half of the regularly
9 scheduled commission meetings that the member is eligible to attend
10 during a calendar year without an excuse approved by a majority vote
11 of the commission.

12 (b) The validity of an action of the commission is not
13 affected by the fact that it is taken when a ground for removal of a
14 commission member exists.

15 (c) If the executive director has knowledge that a potential
16 ground for removal of a commission member exists, the executive
17 director shall notify the presiding officer of the commission of
18 the potential ground. The presiding officer shall then notify the
19 governor and the attorney general that a potential ground for
20 removal exists. If the potential ground for removal involves the
21 presiding officer, the executive director shall notify the next
22 highest officer of the commission, who shall notify the governor
23 and the attorney general that a potential ground for removal
24 exists.

25 Sec. 2004.058. TRAINING. (a) A person who is appointed to
26 and qualifies for office as a member of the commission may not vote,
27 deliberate, or be counted as a member in attendance at a meeting of

1 the commission until the person completes a training program that
2 complies with this section.

3 (b) The training program must provide the person with
4 information regarding:

5 (1) this chapter and the commission's programs,
6 functions, rules, and budget;

7 (2) the results of the most recent formal audit of the
8 commission;

9 (3) the requirements of laws relating to open
10 meetings, public information, administrative procedure, and
11 conflict of interest; and

12 (4) any applicable ethics policies adopted by the
13 commission or the Texas Ethics Commission.

14 (c) A person appointed to the commission is entitled to
15 reimbursement, as provided by the General Appropriations Act, for
16 travel expenses incurred in attending the training program
17 regardless of whether the attendance at the program occurs before
18 or after the person qualifies for office.

19 Sec. 2004.059. QUALIFICATIONS AND STANDARDS OF CONDUCT
20 INFORMATION. The executive director or the executive director's
21 designee shall provide to members of the commission, as often as
22 necessary, information regarding their:

23 (1) qualifications for office under this chapter; and

24 (2) responsibilities under applicable laws relating
25 to standards of conduct for state officers.

26 Sec. 2004.060. BOND. (a) Before assuming the duties of
27 office, an appointed member of the commission must execute a bond in

1 the amount of \$25,000 payable to the state and conditioned on the
2 member's faithful performance of the member's duties of office.

3 (b) The bond must be approved by the governor.

4 (c) The cost of the bond shall be paid by the commission.

5 Sec. 2004.061. PROHIBITION OF CERTAIN ACTIVITIES. (a) An
6 appointed member of the commission may not:

7 (1) use the member's official authority to affect the
8 result of an election or nomination for public office; or

9 (2) directly or indirectly coerce, attempt to coerce,
10 command, or advise a person to pay, lend, or contribute anything of
11 value to another person for political purposes.

12 (b) A commission member or the spouse of a commission member
13 may not solicit or accept employment from a licensee or an applicant
14 for a license before the second anniversary of the date the
15 commission member's service on the commission ends.

16 Sec. 2004.062. APPLICATION OF FINANCIAL DISCLOSURE LAW.
17 For purposes of Chapter 572, Government Code, a member of the
18 commission, the executive director, and the division directors are
19 appointed officers of a major state agency.

20 Sec. 2004.063. PER DIEM; EXPENSES. (a) Each appointed
21 member of the commission is entitled to:

22 (1) a per diem in an amount prescribed by
23 appropriation for each day spent in performing the duties of the
24 member; and

25 (2) reimbursement for actual and necessary expenses
26 incurred in performing those duties.

27 (b) Reimbursement for expenses under this section is

1 subject to any applicable limitation in the General Appropriations
2 Act.

3 (c) The ex officio member is entitled to reimbursement for
4 expenses from that member's agency as provided by law for expenses
5 incurred in the performance of that member's other official duties.

6 Sec. 2004.064. EXECUTIVE DIRECTOR. (a) The commission
7 shall appoint an executive director, who serves at the pleasure of
8 the commission.

9 (b) A person holding an elective office or an officer or
10 official of a political party is not eligible for appointment as
11 executive director.

12 (c) The executive director must have five or more years of
13 responsible administrative experience in public or business
14 administration or possess broad management skills.

15 (d) The executive director may not pursue any other business
16 or occupation or hold any other office for profit.

17 (e) The executive director must meet all eligibility
18 requirements relating to members of the commission, except the
19 requirement for prior residency in this state.

20 (f) The executive director is entitled to an annual salary
21 and other compensation specified by the commission.

22 (g) The executive director may not, before the second
23 anniversary of the date the director's service to the commission
24 ends, acquire a direct or indirect interest in or be employed by a
25 person licensed in the conduct of gaming or the provision of casino
26 services in this state.

27 Sec. 2004.065. OFFICES. The commission shall maintain its

1 primary office in Travis County and may maintain other offices
2 determined to be necessary by the commission.

3 Sec. 2004.066. AUTHORITY TO SUE OR BE SUED. (a) The
4 commission may sue and be sued.

5 (b) Service of process in a suit against the commission may
6 be secured by serving the executive director.

7 (c) A suit against the commission must be brought in Travis
8 County.

9 Sec. 2004.067. AUDIT. The transactions of the commission
10 are subject to audit by the state auditor under Chapter 321,
11 Government Code.

12 Sec. 2004.068. ACCESS TO CRIMINAL HISTORY RECORDS. (a)
13 The governor shall conduct an investigation of and is entitled to
14 obtain criminal history record information maintained by the
15 Department of Public Safety, the Federal Bureau of Investigation
16 Identification Division, or another law enforcement agency
17 relating to an individual the governor intends to appoint to the
18 commission.

19 (b) The commission shall conduct an investigation of and is
20 entitled to obtain criminal history record information maintained
21 by the Department of Public Safety, the Federal Bureau of
22 Investigation Identification Division, or another law enforcement
23 agency relating to an individual the commission intends to employ.

24 [Sections 2004.069-2004.100 reserved for expansion]

25 SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

26 Sec. 2004.101. GENERAL POWERS. (a) The commission has
27 broad authority and shall exercise strict control and close

1 supervision over all activities authorized and conducted in this
2 state under a law administered by the commission, including:

- 3 (1) Chapter 2001;
4 (2) this chapter;
5 (3) Chapter 2052;
6 (4) Chapter 466, Government Code; and
7 (5) the Texas Racing Act (Article 179e, Vernon's Texas
8 Civil Statutes).

9 (b) The commission shall ensure that all games and gaming
10 activities subject to the oversight or regulatory authority of the
11 commission are conducted fairly and in compliance with the law.

12 (c) The commission also has the powers and duties granted
13 under:

- 14 (1) Chapter 2001;
15 (2) Chapter 2052;
16 (3) Chapter 466, Government Code; and
17 (4) the Texas Racing Act (Article 179e, Vernon's Texas
18 Civil Statutes).

19 (d) All aspects of this chapter, including those relating to
20 licensing, qualification, execution, and enforcement, shall be
21 administered by the executive director and the commission for the
22 protection of the public and in the public interest.

23 (e) The commission and the executive director have full
24 power and authority to hold hearings, and in connection to the
25 hearings, to issue subpoenas, to compel the attendance of witnesses
26 at any place in this state, to administer oaths, and to require
27 testimony under oath. Any process or notice relating to a hearing

1 may be served in the manner provided for service of process and
2 notices in civil actions. The commission and the executive
3 director may pay transportation and other expenses of witnesses as
4 they consider reasonable.

5 (f) The executive director and the executive director's
6 authorized employees may:

7 (1) inspect and examine a premises where gaming is
8 conducted or equipment or supplies, including a slot machine or
9 other gaming device, or associated equipment is manufactured,
10 assembled, produced, programmed, sold, leased, marketed,
11 distributed, repaired, or modified for use in gaming;

12 (2) for good cause, seize and remove from a premises
13 and impound equipment or supplies for the purpose of examination
14 and inspection; and

15 (3) demand access to, inspect, examine, photocopy, or
16 audit papers, books, and records of applicants and licensees, on
17 their premises or elsewhere as practicable, in the presence of the
18 licensee or the licensee's agent, reporting the gross income
19 produced by a gaming business, verification of the gross income,
20 and other matters affecting the enforcement of this chapter.

21 (g) For the purpose of conducting audits after the cessation
22 of gaming by a licensee, a former licensee shall furnish, on demand
23 of the executive director or the executive director's authorized
24 employees, books, papers, and records as necessary to conduct the
25 audits. The former licensee shall maintain all books, papers, and
26 records necessary for audits for three years after the date of the
27 surrender or revocation of the license. If the former licensee

1 seeks judicial review of a deficiency determination or files a
2 petition for a redetermination, the former licensee must maintain
3 all books, papers, and records until a final order is entered on the
4 determination.

5 Sec. 2004.102. RULEMAKING AUTHORITY. (a) The commission
6 shall adopt rules as the commission considers necessary or
7 desirable in the public interest in carrying out the policy and
8 provisions of this chapter and the other laws administered by the
9 commission.

10 (b) The rules shall set out:

11 (1) the method and form of application that an
12 applicant for a license must follow and complete before
13 consideration of an application by the commission;

14 (2) the information to be furnished by an applicant or
15 licensee concerning antecedents, habits, character, associates,
16 criminal record, business activities, and financial affairs;

17 (3) the criteria to be used in the award, revocation,
18 and suspension of licenses;

19 (4) the information to be furnished by a licensee
20 relating to the licensee's employees;

21 (5) the manner and procedure of hearings conducted by
22 the commission or a hearing examiner of the commission;

23 (6) the payment of fees or costs an applicant or
24 licensee must pay;

25 (7) the procedures for the issuance of temporary
26 licenses and temporary qualification to hold equity interests and
27 creditor interests in owner licensees;

1 (8) the manner and method of collection and payment of
2 fees and the issuance of licenses;

3 (9) the definition of "unsuitable method of
4 operation";

5 (10) the conditions under which the nonpayment of a
6 gambling debt by a licensee shall be deemed grounds for
7 disciplinary action;

8 (11) the manner of approval of new games, slot
9 machines, and gaming devices;

10 (12) access to confidential information obtained
11 under this chapter and means to ensure that the confidentiality of
12 the information is maintained and protected;

13 (13) financial reporting and internal control
14 requirements for licensees;

15 (14) the manner in which winnings, compensation from
16 games and gaming devices, and gross gaming revenue must be computed
17 and reported by an owner licensee;

18 (15) requirements for the annual audit of the
19 financial statements of a licensee;

20 (16) requirements for periodic financial reports from
21 each licensee consistent with standards and intervals prescribed by
22 the commission;

23 (17) the procedures to be followed by a licensee for
24 excluding a person from a casino; and

25 (18) the procedures for exempting or waiving
26 institutional investors from the licensing requirements for
27 shareholders of publicly traded corporations.

1 Sec. 2004.103. AUTHORITY OF EXECUTIVE DIRECTOR. (a) With
2 commission approval, the executive director may create executive
3 positions as the director considers necessary to implement the
4 provisions of this chapter.

5 (b) The executive director shall employ division directors
6 in the areas of audit, investigation, and enforcement. The
7 director of the audit division must be a certified public
8 accountant, have five or more years of progressively responsible
9 experience in general accounting, and have a comprehensive
10 knowledge of the principles and practices of corporate finance or
11 must possess qualifications of an expert in the field of corporate
12 finance and auditing, general finance, gaming, and economics.
13 Other directors must possess five or more years of training and
14 experience in the fields of investigation, law enforcement, law, or
15 gaming.

16 (c) The executive director may investigate, for the purpose
17 of prosecution, a suspected criminal violation of this chapter or
18 another law administered by the commission. For the purpose of the
19 administration and enforcement of this chapter or another law
20 administered by the commission, the executive director and
21 employees designated by the executive director may be commissioned
22 as peace officers.

23 (d) The executive director, to further the objectives and
24 purposes of this chapter or another law administered by the
25 commission, may:

26 (1) direct and supervise all administrative actions of
27 the commission;

1 (2) bring legal action in the name and on behalf of the
2 commission;

3 (3) make, execute, and effect an agreement or contract
4 authorized by the commission;

5 (4) employ the services of persons considered
6 necessary for consultation or investigation and set the salaries of
7 or contract for the services of legal, professional, technical, and
8 operational personnel and consultants, except that outside legal
9 assistance may be retained only with the approval of the attorney
10 general;

11 (5) acquire furnishings, equipment, supplies,
12 stationery, books, and all other things the executive director
13 considers necessary or desirable in carrying out the executive
14 director's functions; and

15 (6) perform other duties the executive director may
16 consider necessary to effect the purposes of this chapter or
17 another law administered by the commission.

18 (e) Except as otherwise provided in this chapter, the costs
19 of administration incurred by the executive director shall be paid
20 in the same manner as other claims against the state are paid.

21 Sec. 2004.104. OFFICE OF HEARING EXAMINERS. (a) The
22 commission shall create an office of hearing examiners to assist
23 the commission in carrying out its powers and duties.

24 (b) The office of hearing examiners shall:

25 (1) hold hearings under the authority of the
26 commission on matters relating to the commission's administration
27 of this chapter or another law administered by the commission as the

1 commission orders; and

2 (2) report after hearing in the manner prescribed by
3 the commission.

4 (c) The commission shall refer any contested case arising
5 under this chapter to the office of hearing examiners.

6 (d) The office of hearing examiners is independent of the
7 executive director and is under the exclusive control of the
8 commission.

9 (e) The office of hearing examiners is under the direction
10 of a chief hearing examiner appointed by the commission.

11 (f) The commission may authorize the chief hearing examiner
12 to delegate to one or more hearing examiners the authority to hold
13 any hearing called by the chief hearing examiner.

14 (g) The chief hearing examiner and all assistant hearing
15 examiners employed by the office of hearing examiners must be
16 attorneys licensed to practice law in this state.

17 (h) The chief hearing examiner and all assistant hearing
18 examiners may administer oaths, receive evidence, and issue
19 subpoenas to compel the attendance of witnesses and the production
20 of papers and documents in all matters delegated by the commission.

21 (i) The chief hearing examiner and all assistant hearing
22 examiners are entitled to an annual salary and other compensation
23 specified by the commission.

24 (j) The office of hearing examiners may contract for
25 additional services it considers necessary to carry out its powers.

26 Sec. 2004.105. JUDICIAL REVIEW IN CONTESTED CASES. A final
27 ruling of the commission in a contested case is subject to judicial

1 review under Chapter 2001, Government Code. Judicial review is
2 under the substantial evidence rule.

3 Sec. 2004.106. RECORDS. (a) The executive director shall
4 maintain a file of all applications for licenses under this
5 chapter, together with a record of all action taken with respect to
6 the applications.

7 (b) The commission and the executive director may maintain
8 other records they consider desirable.

9 (c) The information made confidential by this subsection
10 may be revealed, wholly or partly, only in the course of the
11 necessary administration of this chapter, under Section 2004.552,
12 or on the order of a court of competent jurisdiction, except that
13 the executive director or the commission may disclose the
14 information to an authorized agent of any agency of the United
15 States, another state, or a political subdivision of this state
16 authorized under commission rules. Notice of the content of any
17 information furnished or released under this subsection may be
18 given to any affected applicant or licensee as prescribed by
19 commission rule. The following information is confidential:

20 (1) information requested by the commission or the
21 executive director to be furnished to either of them under this
22 chapter or that may otherwise be obtained relating to the finances,
23 earnings, or revenue of an applicant or licensee;

24 (2) information pertaining to an applicant's criminal
25 record, antecedents, and background that has been furnished to or
26 obtained by the commission or the executive director from any
27 source;

1 (3) information provided to the commission or the
2 executive director or a commission employee by a governmental
3 agency or an informer or on the assurance that the information will
4 be held in confidence and treated as confidential; and

5 (4) information obtained by the executive director or
6 the commission from a casino service licensee relating to the
7 manufacturing, modification, or repair of slot machines or other
8 gaming devices.

9 Sec. 2004.107. REPRESENTATION BY ATTORNEY GENERAL. (a)
10 The attorney general shall represent the commission and the
11 executive director in any proceeding to which the commission or the
12 executive director is a party under this chapter or in any suit
13 filed against the commission or executive director.

14 (b) The office of the attorney general on request shall
15 advise the commission and the executive director in all other
16 matters, including representing the commission when the commission
17 acts in its official capacity.

18 Sec. 2004.108. RULES RESTRICTING ADVERTISING OR
19 COMPETITIVE BIDDING. (a) The commission may not adopt rules
20 restricting advertising or competitive bidding by a person
21 regulated by the commission except to prohibit false, misleading,
22 or deceptive practices by that person.

23 (b) The commission may not include in its rules to prohibit
24 false, misleading, or deceptive practices by a person regulated by
25 the commission a rule that:

26 (1) restricts the use of any advertising medium;

27 (2) restricts the person's personal appearance or the

1 use of the person's voice in an advertisement;

2 (3) relates to the size or duration of an
3 advertisement by the person; or

4 (4) restricts the use of a trade name in advertising by
5 the person.

6 Sec. 2004.109. RULES ON CONSEQUENCES OF CRIMINAL
7 CONVICTION. (a) The commission shall adopt rules necessary to
8 comply with Chapter 53.

9 (b) In its rules under this section, the commission shall
10 list the specific offenses for which a conviction would constitute
11 grounds for the commission to take action under Section 53.021.

12 Sec. 2004.110. SUBPOENA. (a) The commission may request
13 and, if necessary, compel by subpoena:

14 (1) the attendance of a witness for examination under
15 oath; and

16 (2) the production for inspection and copying of
17 records and other evidence relevant to the investigation of an
18 alleged violation of this chapter.

19 (b) If a person fails to comply with a subpoena issued under
20 this section, the commission, acting through the attorney general,
21 may file suit to enforce the subpoena in a district court in Travis
22 County or in the county in which a hearing conducted by the
23 commission may be held.

24 (c) The court shall order a person to comply with the
25 subpoena if the court determines that good cause exists for issuing
26 the subpoena.

27 Sec. 2004.111. USE OF TECHNOLOGY. The commission shall

1 implement a policy requiring the commission to use appropriate
2 technological solutions to improve the commission's ability to
3 perform its functions. The policy must ensure that the public is
4 able to interact with the commission on the Internet.

5 Sec. 2004.112. NEGOTIATED RULEMAKING AND ALTERNATIVE
6 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and
7 implement a policy to encourage the use of:

8 (1) negotiated rulemaking procedures under Chapter
9 2008, Government Code, for the adoption of commission rules; and

10 (2) appropriate alternative dispute resolution
11 procedures under Chapter 2009, Government Code, to assist in the
12 resolution of internal and external disputes under the commission's
13 jurisdiction.

14 (b) The commission's procedures relating to alternative
15 dispute resolution must conform, to the extent possible, to any
16 model guidelines issued by the State Office of Administrative
17 Hearings for the use of alternative dispute resolution by state
18 agencies.

19 (c) The commission shall designate a trained person to:

20 (1) coordinate the implementation of the policy
21 adopted under Subsection (a);

22 (2) serve as a resource for any training needed to
23 implement the procedures for negotiated rulemaking or alternative
24 dispute resolution; and

25 (3) collect data concerning the effectiveness of those
26 procedures, as implemented by the commission.

27 Sec. 2004.113. COMMITTEES. The commission may appoint

1 committees that it considers necessary to carry out its duties.

2 Sec. 2004.114. ANNUAL REPORT. (a) The commission shall
3 file annually with the governor and the presiding officer of each
4 house of the legislature a complete and detailed written report
5 accounting for all money received and disbursed by the commission
6 during the preceding fiscal year.

7 (b) The annual report must be in the form and be reported in
8 the time provided by the General Appropriations Act.

9 Sec. 2004.115. GAMING AGREEMENT WITH INDIAN TRIBE. As
10 authorized by Section 47(f), Article III, Texas Constitution, the
11 commission or governor may enter into a gaming agreement with an
12 Indian tribe for the operation of casinos by the Indian tribe on
13 tribal land.

14 Sec. 2004.116. GIFT OR POLITICAL CONTRIBUTION TO OFFICER OR
15 EMPLOYEE. (a) A commission member, the executive director, or an
16 employee of the commission may not intentionally or knowingly
17 accept a gift or political contribution from:

18 (1) a person that has a significant financial interest
19 in the lottery or in gaming regulated under this chapter or another
20 law administered by the commission;

21 (2) a person related in the first degree of
22 consanguinity or affinity to a person that has a significant
23 financial interest in the lottery or in gaming regulated under this
24 chapter or another law administered by the commission;

25 (3) a person that owns more than a 10 percent interest
26 in an entity that has a significant financial interest in the
27 lottery or in gaming regulated under this chapter or another law

1 administered by the commission;

2 (4) a political committee that is directly
3 established, administered, or controlled, in whole or in part, by a
4 person that has a significant financial interest in the lottery or
5 in gaming regulated under this chapter or another law administered
6 by the commission; or

7 (5) a person who, within the two years preceding the
8 date of the gift or contribution, won a lottery prize exceeding \$600
9 in amount or value.

10 (b) A person may not make a gift or political contribution
11 to a person known by the actor to be a commission member, the
12 executive director, or an employee of the commission, if the actor:

13 (1) has a significant financial interest in the
14 lottery or in gaming regulated under this chapter or another law
15 administered by the commission;

16 (2) is related in the first degree of consanguinity or
17 affinity to a person that has a significant financial interest in
18 the lottery or in gaming regulated under this chapter or another law
19 administered by the commission;

20 (3) owns more than a 10 percent interest in an entity
21 that has a significant financial interest in the lottery or in
22 gaming regulated under this chapter or another law administered by
23 the commission;

24 (4) is a political committee that is directly
25 established, administered, or controlled, in whole or in part, by a
26 person that has a significant financial interest in the lottery or
27 in gaming regulated under this chapter or another law administered

1 by the commission; or

2 (5) within the two years preceding the date of the gift
3 or contribution, won a lottery prize exceeding \$600 in amount or
4 value.

5 (c) A person commits an offense if the person violates this
6 section. An offense under this section is a Class A misdemeanor.

7 Sec. 2004.117. DIVISIONS. (a) The commission shall
8 establish separate divisions to oversee and regulate:

9 (1) bingo;

10 (2) the state lottery;

11 (3) video lottery;

12 (4) boxing;

13 (5) casino gaming; and

14 (6) pari-mutuel racing.

15 (b) To facilitate the operations of the commission or a
16 division of the commission, the commission or executive director
17 may delegate to a division or a division director a specific power
18 or duty given to the commission or executive director under this
19 chapter or other law.

20 (c) A division director shall, at the request of the
21 executive commissioner, assist in the development of rules and
22 policies for the operation and provision of a division of the
23 commission. The division director:

24 (1) acts on behalf of the executive director in
25 performing the delegated function; and

26 (2) reports to the executive director regarding the
27 delegated function and any matter affecting commission programs and

1 operations.

2 Sec. 2004.118. RESTRICTIONS ON EMPLOYMENT. (a) The
3 commission may not employ or continue to employ a person who owns a
4 financial interest in:

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

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

8 (3) any gaming activity regulated under this chapter
9 or a person licensed under this chapter;

10 (4) combative sports regulated under Chapter 2052; or

11 (5) pari-mutuel wagering regulated under the Texas
12 Racing Act (Article 179e, Vernon's Texas Civil Statutes).

13 (b) The commission may not employ or continue to employ a
14 person who is a spouse, child, brother, sister, or parent residing
15 as a member of the same household in the principal place of
16 residence of a person who is subject to a disqualification
17 prescribed by Subsection (a).

18 (c) In employing the executive director and other
19 employees, the commission shall strive to reflect the diversity of
20 the population of the state as regards race, color, handicap, sex,
21 religion, age, and national origin.

22 [Sections 2004.119-2004.150 reserved for expansion]

23 SUBCHAPTER D. CASINO OWNER'S LICENSE

24 Sec. 2004.151. OWNER'S LICENSE. (a) Gaming may lawfully be
25 conducted in a casino operating under an owner's license.

26 (b) A person may not conduct gaming or own an equity
27 interest in a casino that conducts gaming in this state for which an

1 owner's license is not in effect.

2 (c) A separate owner's license must be obtained for each
3 casino conducting gaming.

4 Sec. 2004.152. ALLOCATION OF OWNER'S LICENSES. (a) The
5 commission shall award 12 owner's licenses in this state. The
6 commission shall award one license in each of 12 different counties
7 located in different tourist destinations in this state. A person
8 that holds a license issued under this subsection may operate a
9 casino and casino games in accordance with this chapter and
10 commission rules at one location approved by the commission in the
11 geographic area for which the license is issued.

12 (b) A federally recognized Indian tribe may obtain an
13 owner's license rather than negotiating a gaming agreement under
14 this chapter or the Indian Gaming Regulatory Act (25 U.S.C. Section
15 2701 et seq.). An owner's license issued by the commission to the
16 tribe constitutes an agreement between this state and the tribe for
17 purposes of that Act.

18 (c) Notwithstanding Subsection (a):

19 (1) a license may not be issued in a county unless a
20 majority of the voters of the county voted in favor of the
21 constitutional amendment legalizing casino gaming in 2005;

22 (2) a license may not be issued in an area in which
23 gaming is being conducted under the Indian Gaming Regulatory Act
24 (25 U.S.C. Section 2701 et seq.) as of the effective date of this
25 chapter; and

26 (3) not fewer than three of the owner's licenses
27 allocated under Subsection (a) may be awarded in counties that

1 contain an island in the Gulf of Mexico on which there is an
2 incorporated city with a population of at least 50,000, and in
3 allocating all licenses under this subsection, the commission shall
4 consider, in addition to the other suitability criteria described
5 in this chapter, the ability of the proposed casino facility to
6 attract interstate or international tourism and to develop jobs
7 within political subdivisions in which there has been a history of
8 unemployment in excess of six percent for a period of three
9 consecutive years out of the preceding five years as determined by
10 the commission.

11 (d) For purposes of determining the location of a casino, a
12 casino is considered to be located in the municipality in which the
13 main public entrance to the casino is located or, if the main public
14 entrance is located outside a municipality, in the county in which
15 the entrance is located.

16 (e) A person may not beneficially own, directly or
17 indirectly, an equity interest of more than five percent of the
18 total equity interest in more than three owner licensees.

19 (f) A person may not operate, either under an owner's
20 license or under an operator's license, more than three casinos.

21 Sec. 2004.153. ADDITIONAL OWNER'S LICENSES FOR CERTAIN
22 PARI-MUTUEL FACILITIES. (a) In addition to the owner's licenses
23 provided under Section 2004.152, the commission may issue an
24 owner's license to be held in conjunction with each license to
25 operate a greyhound or Class I horse racetrack under the Texas
26 Racing Act (Article 179e, Vernon's Texas Civil Statutes) held on or
27 for which a person had applied by June 1, 2005.

1 (b) The issuance of an owner's license under this section is
2 subject to the applicant's satisfaction of all application,
3 applicant eligibility, suitability, and other criteria applicable
4 to applicants under Section 2004.152, except those relating to
5 requisite economic impact under Section 2004.157. Except as
6 otherwise provided in Subsection (a), all provisions of this
7 chapter apply equally to licensees under this section and Section
8 2004.152.

9 (c) Notwithstanding anything to the contrary in the Texas
10 Racing Act (Article 179e, Vernon's Texas Civil Statutes), all
11 matters relating to owner's licenses issued under this section,
12 including licensing, manner of operation, and enforcement, are
13 regulated exclusively by the commission.

14 (d) Fees and taxes imposed with respect to owner's licenses
15 under this section shall be collected and paid as required by this
16 chapter.

17 (e) Except as to simulcast common pool wagering conducted in
18 a casino and except as otherwise authorized by the commission, the
19 casino operations and financial records of an owner licensee under
20 this section shall be kept separate from the racing operations and
21 records of the licensee.

22 (f) The commission shall adopt rules requiring the
23 continued common ownership of a casino licensed under this section
24 and the racetrack associated with the casino.

25 Sec. 2004.154. APPLICATION. (a) Application for an
26 owner's license shall be made according to the rules of the
27 commission and shall contain information the commission finds

1 necessary to determine the suitability and eligibility of the
2 applicant, the eligibility of the proposed location, and the
3 economic impact of the overall casino project.

4 (b) In addition to any other information the commission may
5 require, an application must include the following information
6 concerning the feasibility of the overall casino project:

7 (1) evidence that the applicant possesses, or has the
8 right to acquire, sufficient real property on which the proposed
9 casino will be located in order to allow the applicant's
10 construction and operation of the casino project substantially as
11 proposed;

12 (2) evidence that the applicant possesses, or
13 reasonably expects to obtain, all state, county, and municipal
14 permits and approvals necessary for the construction and operation
15 of the proposed casino within the time periods prescribed in this
16 chapter;

17 (3) evidence that the applicant possesses, or
18 reasonably expects to obtain, all funds or financing necessary to
19 construct and operate the applicant's proposed casino within the
20 time periods prescribed in this chapter; and

21 (4) evidence that the applicant is prepared to begin
22 construction of its proposed casino promptly on receiving an
23 owner's license and to proceed with the construction of the casino
24 without unnecessary delay.

25 (c) An applicant may apply for more than one owner's license
26 relating to more than one casino, but must submit a separate
27 application for each casino for which an owner's license is sought.

1 (d) An application for an owner's license must be
2 accompanied by the nonrefundable application fee set out in Section
3 2004.351.

4 Sec. 2004.155. MANDATORY REQUIREMENTS. (a) During the
5 first two years an individual holds an owner's license, the
6 individual must be a resident of this state and comply with the
7 residency requirements established by the commission.

8 (b) A company is eligible to apply for and hold an owner's
9 license only if:

10 (1) the company is incorporated or organized and in
11 good standing in this state or organized under the laws of another
12 state of the United States and qualified to do business in this
13 state;

14 (2) the company complies with all the laws of this
15 state; and

16 (3) either of the following applies:

17 (A) persons who beneficially own at least 51
18 percent of the equity interest of the company in accordance with the
19 beneficial ownership criteria established by the commission are
20 residents of this state under the residency requirements set out by
21 the commission; or

22 (B) the company has held an owner's license for
23 two years or more.

24 (c) To be eligible to receive an owner's license to own a
25 casino located in a municipality or located in an unincorporated
26 area of a county, an applicant must submit its application to the
27 commission not less than 60 days after the date the commission

1 establishes procedures for application.

2 (d) An application may not be considered filed for purposes
3 of this chapter that does not include the information prescribed by
4 Section 2004.154(b) or that is not accompanied by the prescribed
5 application fee.

6 (e) This section does not supersede the residency and
7 ownership requirements prescribed in the Texas Racing Act (Article
8 179e, Vernon's Texas Civil Statutes) with respect to ownership and
9 operation of pari-mutuel racetracks.

10 Sec. 2004.156. LICENSE AWARD CONSIDERATIONS. (a) The
11 commission shall determine the initial and continuing suitability
12 of each applicant for or holder of an owner's license based on
13 suitability criteria the commission adopts to ensure that all owner
14 licensees are of good character, honesty, integrity, and financial
15 stability, that an owner licensee has sufficient business probity,
16 competence, and experience in gaming, and that an owner licensee is
17 otherwise qualified to be licensed.

18 (b) The commission shall give due consideration to the
19 protection of the public health, safety, morals, and general
20 welfare of the people of this state and for the reputation of the
21 state's gaming industry.

22 (c) The burden of proving suitability to receive or hold an
23 owner's license is on the applicant or licensee.

24 (d) In considering the initial and continuing suitability
25 of an applicant for or holder of an owner's license, the commission
26 may consider the suitability of:

27 (1) each person holding an equity interest or creditor

1 interest in the applicant or holder;

2 (2) each person holding, or proposed to receive, an
3 operator's license, occupational license, or manufacturer's
4 license employed by or doing business with the applicant or holder;
5 and

6 (3) each affiliate of the applicant or holder.

7 (e) An applicant for or holder of an owner's license may not
8 receive or hold an owner's license if the person:

9 (1) has ever been convicted of a felony under the laws
10 of this state, any other state, or the United States;

11 (2) has ever been convicted of a gambling or gaming
12 violation under the laws of this state or any other state;

13 (3) has ever knowingly or intentionally submitted an
14 application for a license under this chapter that contained false
15 information;

16 (4) served as a principal manager for a person
17 described by Subdivision (1), (2), or (3);

18 (5) retains or employs another person described by
19 Subdivision (1), (2), or (3);

20 (6) beneficially owns any material equity interest or
21 creditor interest in the applicant or holder and is a person
22 described by Subdivision (1), (2), or (3);

23 (7) holds a manufacturer's license or casino service
24 license;

25 (8) is a member of the commission; or

26 (9) is a member of the judiciary or an elected official
27 of this state.

1 (f) The commission may adopt rules providing for a person's
2 reciprocal determination of suitability to hold an owner's license
3 based on:

4 (1) a determination of suitability to own and operate
5 a casino in any other jurisdiction the commission considers
6 reasonable in light of the purpose of this chapter; or

7 (2) the person's ownership of a greyhound or Class I
8 horse racing facility under the Texas Racing Act (Article 179e,
9 Vernon's Texas Civil Statutes).

10 Sec. 2004.157. ECONOMIC IMPACT ANALYSIS. (a) In
11 determining whether or, in the case of multiple applicants
12 competing for one owner's license within a county, to whom to grant
13 an owner's license, the commission shall consider the following
14 factors:

15 (1) the relative prospective revenues to be collected
16 by the state from the conduct of gaming at the casino and the
17 overall economic impact of each competing applicant's proposed
18 casino and associated facilities;

19 (2) the relative number of residents of this state who
20 would be employed in an applicant's proposed casino and any
21 proposed associated hotel and nongaming businesses and the relative
22 extent of the applicant's good faith plan to recruit, train, and
23 promote a workforce that reflects the diverse populations of this
24 state in all employment classifications;

25 (3) the relative extent to which an applicant's
26 proposed casino and any proposed associated hotel and nongaming
27 businesses could be reasonably expected to encourage interstate

1 tourism to this state;

2 (4) the relative extent to which the scope, design,
3 location, and construction of the applicant's casino and any
4 associated hotel and nongaming businesses could be reasonably
5 expected to contribute to developing a first-class gaming industry
6 in this state; and

7 (5) the applicant's experience in conducting licensed
8 gaming operations and the applicant's financial ability to promptly
9 construct and adequately maintain the casino sought to be licensed,
10 including the experience of partners of the applicant, of
11 affiliated companies of the applicant or its partners, of key
12 personnel of the applicant or its partners, and of operating
13 companies under contract with the applicant.

14 (b) To ensure that a requisite level of economic development
15 benefiting the people of this state accompanies each casino for
16 which an owner's license is granted, the commission shall require
17 an applicant, as a condition to receiving and holding an owner's
18 license, to commit to provide new investment in conjunction with
19 the casino.

20 (c) The commission may not award an owner's license for a
21 casino project unless the project meets the major economic
22 development qualifications established by this subsection. The
23 minimum total land and development costs for a project to qualify
24 for a license are as follows:

25 (1) \$_____ for an urban tourist destination
26 casino; or

27 (2) \$_____ for an island tourist destination

1 casino.

2 Sec. 2004.158. PROOF OF ELECTION APPROVAL. The commission
3 may not accept an application for an owner's license relating to a
4 casino proposed to be located in a county before receiving
5 certification from the governing body of the county that a majority
6 of the voters in the county voted in favor of the constitutional
7 amendment proposition authorizing casino gaming.

8 Sec. 2004.159. REVIEW OF APPLICATION. (a) The commission
9 shall issue an order approving or denying an application for an
10 owner's license not more than six months after the date of the
11 filing of the application.

12 (b) The commission may adopt rules for awarding temporary or
13 interim licensing the commission finds necessary to administer this
14 chapter.

15 Sec. 2004.160. TRANSFERABILITY. (a) An owner's license is
16 not transferable and applies only to the specific site identified
17 in the license.

18 (b) Except as provided by Section 2004.163, an owner license
19 holder that sells, transfers, assigns, or otherwise conveys any
20 interest in the owner's license or the casino owned or managed by
21 the license holder before casino operations begin at the casino or
22 before the fifth anniversary of the commencement of casino
23 operations shall remit to this state a transfer fee equal to 51
24 percent of the sales, transfer, assignment, or other conveyance
25 price received by the license holder.

26 Sec. 2004.161. DENIAL AND REVOCATION. (a) The commission
27 may deny an application or revoke an owner's license for a

1 reasonable cause.

2 (b) If the commission determines it has reasonable grounds
3 to believe that an owner licensee may be unsuitable to continue to
4 hold an owner's license, the commission shall conduct an
5 investigation and hearing under Section 2004.551 and may, based on
6 its determination, suspend, limit, or revoke the license. On
7 suspension or revocation of an owner's license, the licensee must
8 immediately cease all gaming.

9 (c) If the holder of an owner's license fails to begin
10 construction of a casino within one year after the receipt of the
11 owner's license, or fails to begin gaming operations within three
12 years after the receipt of the license, the license is forfeited,
13 unless the commission, for good cause, has previously granted an
14 appropriate extension of time.

15 (d) The right to receive and hold an owner's license is a
16 revocable privilege, and not a right or property under the United
17 States Constitution or the Texas Constitution. An applicant for or
18 holder of an owner's license does not have a vested interest or
19 right in a license granted under this chapter.

20 Sec. 2004.162. REGISTRATION OF INTEREST IN LICENSE. (a)
21 Except as provided by Subsection (b), a person who directly or
22 indirectly owns an equity or creditor interest in an applicant for
23 or holder of an owner's license shall register and qualify with the
24 commission under commission rules and shall provide information the
25 commission finds necessary to determine the suitability and
26 eligibility of the person to retain the interest.

27 (b) The following persons are not required to register or

1 qualify under this section:

2 (1) a key employee of the owner licensee that is
3 required to apply for an occupational license under Section
4 2004.202;

5 (2) an institutional investor;

6 (3) a person that beneficially owns five percent or
7 less of the total equity or creditor interest of the owner licensee;
8 and

9 (4) any other group or class of persons that the
10 commission by rule exempts from registration or qualification.

11 (c) A registration filed under this section must be
12 accompanied by the application fee set out in Section 2004.351.

13 Sec. 2004.163. TRANSFERABILITY OF INTEREST. (a) Except as
14 provided by this subsection, an owner licensee may not issue an
15 equity or creditor interest to a person without the commission's
16 determination of the qualification of the proposed subscriber or
17 purchaser to hold the interest. An owner licensee that is a
18 publicly held company may issue equity or creditor interests of
19 five percent or less of its equity or creditor interest to any
20 person without the consent of the commission.

21 (b) A person beneficially owning more than five percent of
22 the equity or creditor interest of an owner licensee may not
23 transfer any portion of the interest in the licensee to any person
24 without the commission's determination of the qualification of the
25 proposed transferee to hold the interest.

26 (c) A subscriber or proposed transferee of an interest by an
27 owner licensee shall provide the commission with information the

1 commission considers necessary to determine the qualification of
2 the person. The commission, not later than 60 days after the date
3 of the application, shall determine the qualification of a
4 subscriber or proposed transferee and approve or deny the issuance
5 or transfer.

6 Sec. 2004.164. DETERMINATION OF QUALIFICATION. (a) The
7 commission shall determine the qualification of a person to acquire
8 or continue to hold an equity or creditor interest in an applicant
9 for or holder of an owner's license based on the qualification
10 requirements the commission adopts for the protection of the public
11 interest to ensure that the persons holding securities issued by
12 licensees are of good character, honesty, integrity, and financial
13 stability, and are otherwise qualified to hold the interest.

14 (b) The burden of proving qualification to acquire or hold
15 an equity or creditor interest in a licensee is on the person
16 acquiring or holding the interest.

17 (c) A person is unsuitable to acquire or retain an equity or
18 creditor interest in an applicant for or holder of an owner's
19 license if the person would be unsuitable to receive an owner's
20 license under Section 2004.156(e).

21 (d) If the commission has reasonable grounds to believe that
22 a person holding an equity or creditor interest in an applicant for
23 or holder of an owner licensee may be unqualified to retain its
24 interest, the commission shall conduct an investigation and hearing
25 under Section 2004.551 and may, based on its determination, issue
26 an unsuitability finding and divestiture order to the holder of the
27 interest and the issuer of the interest. On receipt of a

1 divestiture order, the person holding the interest shall tender its
2 entire interest for purchase to the issuer or a third party on terms
3 the commission approves.

4 (e) If the commission issues an unsuitability finding and
5 divestiture order to a holder of an equity interest or creditor
6 interest, the person subject to the order may not:

7 (1) receive, directly or indirectly, a dividend,
8 interest, payment, or distribution of any kind relating to the
9 security that is the subject of the order; or

10 (2) exercise, directly or indirectly, any voting power
11 or other right with respect to the security to which the order
12 relates.

13 (f) A person subject to an order may receive payment for the
14 sale of the person's interest on terms the commission approves.

15 [Sections 2004.165-2004.200 reserved for expansion]

16 SUBCHAPTER E. OPERATOR'S AND OCCUPATIONAL LICENSES

17 Sec. 2004.201. OPERATOR'S LICENSE. (a) A person may not
18 provide services as a casino operator without holding an operator's
19 license.

20 (b) A casino operator must hold a separate license for each
21 casino that the casino operator operates unless the operator is
22 also the owner of the premises and holds an owner's license for the
23 premises.

24 Sec. 2004.202. OCCUPATIONAL LICENSE. (a) A person may not
25 be employed as a gaming employee without holding an occupational
26 license.

27 (b) A holder of an owner's or operator's license is not

1 required to obtain an occupational license to provide services as a
2 gaming employee in the casino to which the license relates.

3 (c) An owner must at all times have not less than one
4 occupational licensee designated as a key employee having
5 responsibility over all gaming activities who shall be available at
6 the casino at all times when gaming is conducted on the licensee's
7 premises.

8 (d) A gaming employee designated or determined to be a key
9 employee by the commission shall be issued an occupational license
10 designated as a key employee occupational license. In determining
11 whether an employee is a key employee, the commission is not
12 restricted by the title of the job performed by the employee but may
13 consider the functions and responsibilities of the employee in
14 making decisions.

15 (e) A person employed in the field of gaming as a gaming
16 employee shall obtain an occupational license designated as a
17 support occupational license. A person required to hold a support
18 occupational license may not be a gaming employee of or assist the
19 owner or operator licensee until the employee obtains a support
20 occupational license. A person licensed as a key employee does not
21 need to obtain a support occupational license.

22 Sec. 2004.203. APPLICATION. (a) Application for an
23 operator's license or an occupational license shall be made in
24 compliance with commission rules and must contain information the
25 commission finds necessary to determine the suitability and
26 eligibility of the applicant to function as a casino operator or to
27 be employed or retained as a gaming employee.

1 (b) An application for an operator's license or an
2 occupational license must be accompanied by the required
3 application fee.

4 (c) The commission may issue a temporary operator's license
5 and a temporary occupational license.

6 Sec. 2004.204. RESIDENCY. A person is eligible to apply for
7 and hold an operator's license or occupational license without
8 regard to the residency of the applicant.

9 Sec. 2004.205. DETERMINATION OF SUITABILITY. (a) The
10 commission shall determine the suitability of an applicant for or
11 holder of an operator's license or occupational license based on
12 suitability criteria the commission adopts in order to ensure that
13 a licensee:

14 (1) is of good character, honesty, and integrity;

15 (2) has sufficient business probity, competence, and
16 training or experience in the gaming industry to perform the
17 function contemplated; and

18 (3) is otherwise qualified to be licensed.

19 (b) The burden of proving suitability to receive and hold an
20 operator's license or occupational license is on the applicant or
21 licensee.

22 (c) In considering the suitability of a company applying for
23 or holding an operator's license or occupational license to receive
24 and continue to hold the license, the commission shall consider the
25 suitability of each principal manager and each holder of an equity
26 interest and creditor interest of the company to individually
27 receive and hold an occupational license based on the suitability

1 standards that apply to the applicants for the license generally.

2 (d) A person may not be found suitable to receive or hold an
3 operator's license or occupational license if that person would be
4 found unsuitable to hold an owner's license under Section
5 2004.156(e), except that an applicant for an operator's license or
6 occupational license who has been convicted of a felony may be found
7 suitable if the person is found to be adequately rehabilitated
8 under the rehabilitation requirements adopted by the commission,
9 and the applicant or licensee is otherwise suitable for licensing.

10 Sec. 2004.206. DENIAL OR REVOCATION OF LICENSE. (a) The
11 commission may deny an application for or revoke an operator's
12 license or occupational license for any reasonable cause.

13 (b) If the commission determines that it has reasonable
14 grounds to believe that a licensee may be unsuitable to continue to
15 hold the license, giving due consideration to the protection of the
16 health, safety, morals, and general welfare of this state and to the
17 reputation of the state's gaming industry, the commission shall
18 conduct an investigation and hearing provided in Section 2004.551
19 and may, based on its determination, suspend, limit, or revoke any
20 license.

21 (c) On the suspension or revocation of a license, the
22 licensee shall cease the provision of all services in any capacity
23 requiring a license under Section 2004.201 or 2004.202.

24 (d) A holder of an occupational license that has been
25 revoked or suspended may not:

26 (1) receive, directly or indirectly, any
27 compensation, consideration, or payment of any kind relating to the

1 conduct of gaming in any capacity requiring a license under Section
2 2004.201 or 2004.202, other than the payment for services rendered
3 before the suspension or revocation; or

4 (2) serve or function in a capacity that would require
5 a license under Section 2004.201 or 2004.202.

6 (e) The receipt and holding of a license is a privilege and
7 is not a right or property under the United States Constitution or
8 the Texas Constitution. An applicant for or holder of an operator's
9 license or occupational license does not have a vested interest or
10 right in a license granted under this chapter.

11 [Sections 2004.207-2004.250 reserved for expansion]

12 SUBCHAPTER F. MANUFACTURER'S AND OTHER SERVICE PROVIDERS'

13 LICENSES

14 Sec. 2004.251. MANUFACTURER'S LICENSE. (a) A person may
15 not engage in any segment of the slot machine manufacturing
16 industry in this state for which a manufacturer's license is
17 required under this section without obtaining a manufacturer's
18 license covering that segment of the industry.

19 (b) The commission shall adopt rules identifying segments
20 of the manufacturing industry directly involved in the design,
21 manufacture, assembly, production, programming, sale, lease,
22 marketing, distribution, repair, or modification of slot machines
23 or component parts of slot machines that the commission finds
24 appropriate for licensing under this section.

25 (c) A manufacturer's license is personal to the licensee and
26 allows the licensee to do business with any casino.

27 Sec. 2004.252. CASINO SERVICE LICENSE. (a) A person may

1 not engage in any segment of the casino service industry that
2 requires a license without obtaining a casino service license.

3 (b) The commission shall adopt rules identifying segments
4 of the casino service industry directly involved with providing
5 gaming-related services, equipment, and supplies that the
6 commission finds appropriate for licensing.

7 (c) A person is required to obtain a casino service license
8 if the person:

9 (1) operates, conducts, or maintains a gaming-related
10 business in a casino; or

11 (2) furnishes goods, property, or services to a casino
12 in exchange for:

13 (A) a payment based upon a percentage of the
14 earnings, profits, or receipts from the casino; or

15 (B) a payment the commission finds to be grossly
16 disproportionate to the value of the goods, property, or service
17 provided.

18 (d) A utility company, a municipality, or another political
19 subdivision is not required to obtain a casino service license
20 under this section.

21 (e) A casino service license is personal to the licensee and
22 allows the licensee to do business with any casino.

23 Sec. 2004.253. APPLICATION. (a) Application for a
24 manufacturer's license or casino service license shall be made in
25 compliance with commission rules and shall contain information the
26 commission finds necessary to determine the suitability and
27 eligibility of the applicant.

1 (b) An application for a manufacturer's license or casino
2 service license must be accompanied by the required application
3 fee.

4 Sec. 2004.254. DETERMINATION OF SUITABILITY. (a) In
5 considering the suitability of a company applying for or holding a
6 manufacturer's license or casino service license to receive and
7 continue to hold the license, the commission shall consider the
8 suitability of each principal manager and each holder of an equity
9 interest and creditor interest in the company applicant to
10 individually receive and hold a manufacturer's license or casino
11 service license based on the suitability standards that apply to
12 the company applicant. A person may not be found suitable to
13 receive or hold a manufacturer's license or casino service license
14 if that person would be found unsuitable to hold an owner's license
15 under Section 2004.156(e).

16 (b) If the commission determines that it has reasonable
17 grounds to believe that a licensee is unsuitable to hold a
18 manufacturer's license or casino service license, the commission
19 shall conduct an investigation and hearing under Section 2004.551
20 and may, based on its determination, suspend, limit, or revoke a
21 license.

22 (c) On suspension or revocation of a license, the licensee
23 must cease the performance of manufacturing activity or casino
24 service requiring a license under this chapter. After the
25 revocation or suspension of the license, the affected licensee may
26 not receive, directly or indirectly, compensation, consideration,
27 or payment of any kind relating to manufacturing activity or

1 provision of casino services in any capacity requiring a license
2 under this chapter, other than the payment for goods or services
3 provided before the suspension or revocation.

4 (d) An owner or casino operator who has entered into a lease
5 with a manufacturer licensee or casino services licensee whose
6 license has been revoked or suspended may continue to make payments
7 on the lease based upon its original terms and conditions without
8 modification or may accelerate the lease and pay it off, at the sole
9 option of the owner or operator.

10 (e) The burden of proving suitability to receive and hold a
11 manufacturer's license or casino service license is on the
12 licensee.

13 [Sections 2004.255-2004.300 reserved for expansion]

14 SUBCHAPTER G. LICENSE RENEWAL

15 Sec. 2004.301. TERMS; RENEWAL; TEMPORARY LICENSE. (a)
16 Before the issuance of a license, the commission may issue a
17 temporary license for six months or less and may renew the temporary
18 license as many times as the commission finds appropriate on the
19 payment of the fee and execution of the bond, if required.

20 (b) The commission may issue a temporary license only to a
21 person it believes will be determined to be qualified based on:

22 (1) the commission's review of the background
23 investigations conducted by other state agencies or other United
24 States jurisdictions with gaming activities; and

25 (2) the commission's determination that there is
26 nothing in those background investigations of the applicant that
27 would cause the applicant not to qualify for a license in this

1 state.

2 (c) An original or renewal license expires on the first
3 anniversary of the date it is issued.

4 (d) The fee for an owner's, operator's, occupational,
5 manufacturer's, or casino service license is in the amount
6 established by Section 2004.352 and must be paid annually. A
7 licensee may renew an unexpired license annually by meeting the
8 licensing requirements of the commission and by paying the annual
9 fee.

10 [Sections 2004.302-2004.350 reserved for expansion]

11 SUBCHAPTER H. APPLICATION AND LICENSE FEES

12 Sec. 2004.351. APPLICATION FEES. (a) An applicant for an
13 owner's license submitted before January 1, 2008, must pay a
14 \$_____ application fee for each application not later than the
15 date established by commission rule. The fees shall be deposited in
16 the casino gaming fund.

17 (b) An application during the first two years after the
18 effective date of this chapter must be filed on a date determined by
19 commission rule.

20 (c) Before January 1, 2008, an applicant may not apply for
21 an owner's license for a site in a county unless the application fee
22 for a license in that county was paid during the period established
23 by commission rule in accordance with Subsection (a).

24 (d) An applicant for an owner's license who has not
25 submitted an application fee under Subsection (a) must send with
26 the application an application fee of \$_____.

27 (e) An applicant for a manufacturer's license must pay an

1 application fee of \$_____.

2 (f) An applicant for an operator's license must pay an
3 application fee of \$_____.

4 (g) An applicant for a casino service license must pay an
5 application fee of \$_____.

6 (h) A person registering and applying to qualify to hold an
7 equity interest or creditor interest in a licensee must pay an
8 application fee of \$_____.

9 (i) An individual applying for an occupational license must
10 pay an application fee of \$_____.

11 (j) All application fees must be in the form of a money order
12 or cashier's check and be payable to the Texas Gaming and Boxing
13 Commission. Application fees are nonrefundable.

14 (k) Application fees shall be applied toward the cost of
15 investigating applicants' suitability for licensing or
16 qualification under this chapter. Any costs of investigation
17 incurred in excess of the application fee shall be paid by the
18 applicant.

19 Sec. 2004.352. LICENSE FEES. (a) A holder of an owner's
20 license must pay an annual license fee of \$_____.

21 (b) A holder of a manufacturer's license must pay an annual
22 license fee of \$_____.

23 (c) A casino operator holding an operator's license must pay
24 an annual license fee of \$_____.

25 (d) A holder of a casino service license must pay an annual
26 license fee of \$_____.

27 (e) A holder of an equity interest or creditor interest in

1 any licensee that is required to qualify with the commission must
2 pay an annual fee of \$_____.

3 (f) A holder of an occupational license must pay an annual
4 license fee of \$_____.

5 [Sections 2004.353-2004.400 reserved for expansion]

6 SUBCHAPTER I. CASINO GAMING FUND

7 Sec. 2004.401. TEXAS CASINO GAMING FUND. (a) The Texas
8 casino gaming fund is a special fund in the state treasury.

9 (b) All application fees, investigation fees, and license
10 fees collected by the commission or on the commission's behalf
11 shall be deposited to the credit of the Texas casino gaming fund.

12 (c) The Texas casino gaming fund may be used only for the
13 operation of the commission and the administration of this chapter.
14 However, if the money in the fund exceeds the amount necessary for
15 the operation of the commission and the administration of this
16 chapter, the legislature may transfer any excess amount to the
17 general revenue fund.

18 (d) All proceeds from the gaming tax imposed by Section
19 2004.451 that are allocated to the state shall be deposited to the
20 credit of the general revenue fund.

21 (e) The operation of the commission and the administration
22 of this chapter shall be supported by fees generated under this
23 chapter and by a portion of the gaming taxes imposed by Section
24 2004.451. The operation of the commission may never be a charge
25 against the general revenues of this state except to the extent
26 those revenues are raised by taxes or fees imposed on gaming
27 activities.

1 [Sections 2004.402-2004.450 reserved for expansion]

2 SUBCHAPTER J. TAX ON GROSS GAMING REVENUE

3 Sec. 2004.451. GAMING TAX; ALLOCATION OF TAX. (a) There is
4 imposed on each holder of an owner's license a gaming tax in an
5 amount equal to 15 percent of the gross gaming revenue of the casino
6 operated under the license. The tax shall be computed and paid on a
7 monthly basis as required by commission rule.

8 (b) Five-sixths of the tax imposed by this section, with the
9 exception provided by Subsection (d), is allocated to the general
10 revenue fund.

11 (c) Two-thirds and one-third of the remaining one-sixth of
12 the tax imposed by this section are allocated to the municipality
13 and county, respectively, in which the casino to which the license
14 relates is located, or, if the casino is located in an
15 unincorporated area, the remaining one-sixth of the tax imposed by
16 this section is allocated to the county in which the casino to which
17 the license relates is located.

18 (d) One-tenth of one percent of the gaming tax revenue
19 allocated to general revenue under Subsection (b) shall be
20 allocated to the Texas Commission on Alcohol and Drug Abuse for the
21 commission's compulsive gambling program under Section 461.018,
22 Health and Safety Code.

23 (e) The gaming taxes imposed by this section are due and
24 payable on or before the 20th day of the month following the month
25 in which the taxes are imposed.

26 (f) If the amount of gaming taxes required to be reported
27 and paid under this section is later determined to be greater or

1 less than the amount actually reported and paid by the licensee, the
2 commission shall:

3 (1) assess and collect the additional gaming taxes
4 determined to be due with interest until paid; or

5 (2) refund any overpayment, with interest, to the
6 licensee.

7 (g) Interest must be computed, until paid, at the rate of
8 one percent per month from the first day of the first month
9 following either the due date of the additional gaming taxes or the
10 date of overpayment.

11 Sec. 2004.452. DETERMINATION OF GROSS GAMING REVENUE. (a)
12 In calculating gross gaming revenue, a prize, premium, drawing,
13 benefit, or ticket that is redeemable for money, merchandise, or
14 other promotional allowance, except money or tokens paid at face
15 value directly to a patron as the result of a specific wager and the
16 amount of cash paid to purchase an annuity to fund winnings, may not
17 be deducted as a loss from winnings at any game except a slot
18 machine.

19 (b) In calculating gross gaming revenue from slot machines,
20 the actual cost to the licensee of any personal property
21 distributed to a patron as the result of a legitimate wager may be
22 deducted as a loss, but travel expenses, food, refreshments,
23 lodging, or services at the licensee's facility may not be
24 deducted. For the purposes of this subsection, "as the result of a
25 legitimate wager" means that the patron must make a wager before
26 receiving the personal property, regardless of whether the receipt
27 of the personal property is dependent on the outcome of the wager.

1 (c) Cash or the value of noncash prizes awarded to patrons
2 in a contest or tournament are not losses for purposes of
3 determining gross gaming revenue.

4 Sec. 2004.453. REFUND OF OVERPAYMENT. (a) Gaming taxes
5 that are erroneously collected may be refunded, on approval of the
6 commission, as other claims against the state are paid.

7 (b) Not later than the 90th day after the date of the mailing
8 of the notice of the commission's action on a claim for refund filed
9 under this chapter, the claimant may bring an action against the
10 commission on the grounds stated in the claim in any court of
11 competent jurisdiction for the recovery of any part of the amount of
12 the claim that has been disallowed.

13 (c) Failure to bring an action within the time specified by
14 Subsection (b) constitutes a waiver of any demand against the state
15 on account of alleged overpayments.

16 (d) If the commission fails to mail its notice of action on a
17 claim within six months after the date the claim is filed, the
18 claimant may consider the claim disallowed and bring an action
19 against the commission on the grounds set forth in the claim for the
20 recovery of any part of the amount claimed as an overpayment.

21 (e) In a case where a refund is granted, interest is allowed
22 at the rates provided in Subtitle B, Title 2, Tax Code.

23 (f) A claim for refund of gaming taxes paid in excess of the
24 amount required to be reported and paid must be filed not later than
25 two years after the date of overpayment.

26 Sec. 2004.454. DETERMINATION OF DEFICIENCY. (a) If an
27 owner licensee fails to make a report of the gaming taxes as

1 required by this chapter, or if the executive director is not
2 satisfied with the report of the gaming taxes required to be paid to
3 the state under this chapter by an owner licensee, the executive
4 director may compute and determine the amount required to be paid on
5 the basis of:

6 (1) the facts contained in the report, if any;

7 (2) an audit conducted by the executive director;

8 (3) an estimate of the amount of taxes due under this
9 chapter;

10 (4) any information in the commission's possession or
11 that may come in the executive director's possession; or

12 (5) any combination of the methods described by
13 Subdivisions (1)-(4).

14 (b) In making a determination, the commission may offset
15 overpayments and interest due against underpayments and interest or
16 penalties due for the period of the audit.

17 (c) The executive director shall give prompt written notice
18 of a determination of a deficiency under this section to the owner
19 licensee. Except in the case of fraud or intent to evade the payment
20 of the gaming tax fee imposed by this chapter, a notice of a
21 determination of a deficiency must be mailed not later than two
22 years after the last day of the calendar month following the
23 applicable reporting period in which the deficiency occurred or not
24 later than two years after the report is filed by the owner
25 licensee, whichever is later.

26 (d) If the reasons for the deficiency are not apparent, the
27 executive director shall include an explanation of those reasons in

1 the notice of a determination of a deficiency.

2 (e) If overpayments and interest exceed underpayments,
3 penalties, and interest, the excess payment shall be refunded to
4 the owner licensee.

5 Sec. 2004.455. PETITION FOR REVIEW. (a) An owner licensee
6 against whom a determination is made under Section 2004.454 may
7 petition the commission for a redetermination not later than the
8 30th day after the date of the service of notice of the
9 determination. If a petition for redetermination satisfying the
10 requirements of Subsection (c) is not filed within the 30-day
11 period, the determination becomes final.

12 (b) If a petition for redetermination satisfying the
13 requirements of Subsection (c) is filed within the 30-day period,
14 the commission shall reconsider the determination and, if the
15 petitioner requests, shall grant a hearing.

16 (c) A petition for redetermination must:

17 (1) specify the contested portions of the
18 determination of deficiency;

19 (2) specify the grounds for redetermination;

20 (3) state whether a hearing is requested; and

21 (4) be accompanied by payment in full of the
22 uncontested portion of the determination, including any interest
23 and penalties.

24 (d) An order or decision of the commission on a petition for
25 redetermination is final 10 days after the date of service on the
26 petitioner.

27 (e) A petitioner against whom an order or decision of the

1 commission becomes final may, not later than the 60th day after the
2 date the decision is final, petition for judicial review in the
3 manner provided by Chapter 2001, Government Code. The executive
4 director may not petition for judicial review.

5 Sec. 2004.456. FEES AND TAXES. (a) A county, municipality,
6 or other political subdivision of this state may not impose a
7 license fee on a person licensed to conduct gaming under this
8 chapter. This section does not prohibit the imposition of
9 generally applicable taxes or of fees for standard municipal
10 services.

11 (b) A county, municipality, or other political subdivision
12 of this state may not offer or grant any tax abatement to a person
13 licensed to conduct gaming under this chapter.

14 (c) A building or property owned by a county, municipality,
15 or political subdivision of this state in which casino gaming is
16 operated is subject to all property taxes as if the building or
17 property were not owned by a state or local government.

18 Sec. 2004.457. TAX ADMINISTRATION. (a) The commission
19 shall perform all functions incident to the administration,
20 collection, enforcement, and operation of a fee or tax imposed
21 under this chapter. The commission may adopt rules and prescribe
22 forms for the administration, collection, and enforcement of a fee
23 or tax and for the reporting of a fee or tax.

24 (b) Except as modified by this chapter, Subtitle B, Title 2,
25 Tax Code, applies to the administration, collection, and
26 enforcement of a tax imposed under this chapter. For purposes of
27 the application of Subtitle B, Title 2, Tax Code, to a tax imposed

1 under this chapter, the powers and duties assigned to the
2 comptroller under that subtitle are assigned to the commission.

3 [Sections 2004.458-2004.500 reserved for expansion]

4 SUBCHAPTER K. REGULATION OF CASINO OPERATIONS

5 Sec. 2004.501. REGULATION OF CASINO OPERATIONS. (a) The
6 commission shall adopt rules applicable to the operation of casinos
7 as the commission finds necessary for the protection of the health,
8 safety, morals, and general welfare of this state and for the
9 reputation of the state's gaming industry.

10 (b) Casinos are entitled to operate 24 hours a day, seven
11 days a week. A licensee may elect other hours of operation.

12 (c) The commission may not authorize a casino to conduct
13 wagering on the outcome of a sports event or sports activity other
14 than greyhound or horse racing.

15 Sec. 2004.502. USE OF CHIPS OR TOKENS. All gaming must be
16 conducted with chips or tokens approved by the commission or with
17 the legal tender of the United States.

18 Sec. 2004.503. REPORTING REQUIREMENTS. (a) An owner
19 licensee shall keep the licensee's books and records in a manner
20 that clearly shows the total amount of gross gaming revenue and
21 other revenues received.

22 (b) The books and records kept by an owner licensee relating
23 to gaming operations are not public records and the publication and
24 dissemination of the materials by the commission is prohibited.
25 The commission may publish and disseminate gaming revenues of each
26 owner licensee at a frequency and in the level of detail as it
27 considers appropriate.

1 (c) An owner licensee shall file a report of each change of
2 the corporate officers and directors with the commission. The
3 commission shall, not later than the 90th day after the date of the
4 change, approve or disapprove the change. During the 90-day
5 period, the officer or director is entitled to exercise the powers
6 of the office to which the officer or director was elected or
7 appointed.

8 (d) An owner licensee shall report to the executive director
9 in writing a change in company employees who have been designated as
10 key employees.

11 (e) The commission may require that a company furnish the
12 commission with a copy of its federal income tax return not later
13 than the 30th day after the date the return is filed with the
14 federal government.

15 Sec. 2004.504. EXCLUSION OF PERSONS. (a) The commission by
16 rule shall provide for the establishment of a list of persons who
17 are to be excluded or ejected from a casino. The list may include a
18 person whose presence in the establishment is determined by the
19 commission to pose a threat to the interests of this state, to
20 licensed gaming, or to both interests.

21 (b) In making a determination under this section, the
22 commission may consider any:

23 (1) prior conviction of a crime that is a felony in
24 this state or under the laws of the United States or a crime
25 involving moral turpitude or a violation of the gaming laws of a
26 state; or

27 (2) violation of or conspiracy to violate the

1 provisions of this chapter relating to:

2 (A) the failure to disclose an interest in a
3 gaming establishment for which the person must obtain a license;

4 (B) wilful evasion of a fee or a tax;

5 (C) notorious or unsavory reputation that would
6 adversely affect public confidence and trust that the gaming
7 industry is free from criminal or corruptive elements; or

8 (D) a written order of a governmental agency that
9 authorizes the exclusion or ejection of the person from an
10 establishment where gaming or pari-mutuel wagering is conducted.

11 Sec. 2004.505. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) An
12 owner licensee shall adopt an internal control system that provides
13 for:

14 (1) the safeguarding of its assets and revenues,
15 especially the recording of cash and evidences of indebtedness; and

16 (2) the provision of reliable records, accounts, and
17 reports of transactions, operations, and events, including reports
18 to the executive director and the commission.

19 (b) The internal control system must be designed to
20 reasonably ensure that:

21 (1) assets are safeguarded;

22 (2) financial records are accurate and reliable;

23 (3) transactions are performed only in accordance with
24 management's general or specific authorization;

25 (4) transactions are recorded adequately to permit
26 proper reporting of gaming revenue and of fees and taxes and to
27 maintain accountability for assets;

1 (5) access to assets is permitted only in accordance
2 with management's specific authorization;

3 (6) recorded accountability for assets is compared
4 with actual assets at reasonable intervals and appropriate action
5 is taken with respect to any discrepancies; and

6 (7) functions, duties, and responsibilities are
7 appropriately segregated and performed in accordance with sound
8 practices by competent, qualified personnel.

9 (c) An owner licensee and an applicant for an owner's
10 license shall describe, in a manner approved or required by the
11 executive director, the licensee's or applicant's administrative
12 and accounting procedures in detail in a written system of internal
13 control. An owner licensee and applicant for an owner's license
14 shall submit a copy of the licensee's or applicant's written system
15 to the executive director. A written system must include:

16 (1) an organizational chart depicting appropriate
17 segregation of functions and responsibilities;

18 (2) a description of the duties and responsibilities
19 of each position shown on the organizational chart;

20 (3) a detailed, narrative description of the
21 administrative and accounting procedures designed to satisfy the
22 requirements of Section 2004.503(a);

23 (4) a written statement signed by the licensee's chief
24 financial officer and either the licensee's chief executive officer
25 or an owner licensee attesting that the system satisfies the
26 requirements of this section;

27 (5) if the written system is submitted by an

1 applicant, a letter from an independent certified public accountant
2 stating that the applicant's written system has been reviewed by
3 the certified public accountant and complies with the requirements
4 of this section; and

5 (6) other items the executive director may require.

6 (d) The commission shall adopt minimum standards for
7 internal control procedures.

8 Sec. 2004.506. AGE REQUIREMENTS. A person under the age of
9 21 years may not:

10 (1) play, be allowed to play, place wagers, or collect
11 winnings, personally or through an agent, from any gaming
12 authorized under this chapter; or

13 (2) be employed as a gaming employee.

14 Sec. 2004.507. ACCEPTANCE OF NEGOTIABLE INSTRUMENTS. (a)
15 A negotiable instrument evidencing a gaming transaction may be
16 enforced by legal process.

17 (b) A licensee may accept an incomplete negotiable
18 instrument that is signed by a patron and states the amount of the
19 debt. The licensee may complete the instrument as is necessary for
20 the instrument to be presented for payment.

21 (c) A licensee:

22 (1) may not accept a negotiable instrument that is
23 incomplete, except as authorized by Subsection (b); and

24 (2) may accept a negotiable instrument that is payable
25 to an affiliate or may complete a negotiable instrument in the name
26 of an affiliate as payee if the negotiable instrument otherwise
27 complies with this section and the records of the affiliate

1 pertaining to the negotiable instrument are made available to the
2 executive director on request.

3 (d) This section does not prohibit the establishment of an
4 account by a deposit of cash, recognized traveler's check, or any
5 other instrument that is equivalent to cash.

6 (e) Any person, licensee, or the agents or employees of the
7 person or licensee who violate this section are subject only to the
8 penalties provided in the provisions of this chapter relating to
9 disciplinary actions. The failure of a person to comply with this
10 section or the rules of the commission does not invalidate a
11 negotiable instrument or affect the ability to enforce the
12 negotiable instrument or the transaction that the negotiable
13 instrument represents.

14 Sec. 2004.508. GAMING DEBTS. (a) Except as otherwise
15 provided by this chapter, gaming debts not evidenced by a
16 negotiable instrument are void and unenforceable and do not give
17 rise to any administrative or civil cause of action.

18 (b) A claim by a patron of a licensee for payment of a gaming
19 debt not evidenced by a negotiable instrument may be resolved by the
20 executive director under commission rules.

21 (c) The executive director shall send a copy of the
22 director's ruling by first class mail to the attorneys of record and
23 shall keep an appropriate copy of the mailing. If a party is not
24 represented by an attorney of record, the executive director shall
25 send a copy of the ruling by first class mail to the party and shall
26 keep an appropriate record of the mailing.

27 (d) A party or attorney of record notified by mail under

1 this section is presumed to have been notified on the date on which
2 the notice is mailed.

3 (e) A party aggrieved by the executive director's ruling is
4 entitled to have the claim resolved by the commission in a contested
5 case if the party files a written complaint with the commission
6 challenging the executive director's decision not later than the
7 20th day after the date on which the party or the party's attorney
8 of record is notified by mail.

9 Sec. 2004.509. QUESTIONING AND DETENTION OF PERSONS. (a)
10 An owner licensee or the licensee's officer, employee, or agent may
11 question any person on the licensee's premises suspected of
12 violating this chapter. The owner licensee or the licensee's
13 officer, employee, or agent is not criminally or civilly liable:

14 (1) as a result of the questioning; or
15 (2) for reporting the person suspected of the
16 violation to the executive director or law enforcement authorities.

17 (b) An owner licensee or the licensee's officer, employee,
18 or agent who has reasonable cause to believe that there has been a
19 violation of this chapter in the establishment by a person may take
20 that person into custody and detain the person in the establishment
21 in a reasonable manner and for a reasonable length of time. The
22 taking into custody and detention does not render the licensee or
23 the licensee's officer, employee, or agent criminally or civilly
24 liable unless it is established by clear and convincing evidence
25 that the taking into custody and detention are unreasonable under
26 all the circumstances.

27 (c) An owner licensee or the licensee's officer, employee,

1 or agent is not entitled to the immunity from liability provided by
2 Subsection (a) or (b) unless there is displayed in a conspicuous
3 place in the licensee's establishment a notice in bold-faced type,
4 clearly legible, and in substantially this form:

5 AN OWNER LICENSEE OR AN OWNER LICENSEE'S OFFICER,
6 EMPLOYEE, OR AGENT WHO HAS A REASONABLE CAUSE TO
7 BELIEVE THAT A PERSON HAS VIOLATED A PROVISION OF THE
8 TEXAS ECONOMIC DEVELOPMENT AND GAMING CONTROL ACT MAY
9 QUESTION OR DETAIN THAT PERSON IN THE ESTABLISHMENT.

10 [Sections 2004.510-2004.550 reserved for expansion]

11 SUBCHAPTER L. ENFORCEMENT

12 Sec. 2004.551. ENFORCEMENT. (a) The executive director
13 shall conduct an appropriate investigation to:

14 (1) determine whether there has been a violation of
15 this chapter or of a commission rule;

16 (2) determine facts, conditions, practices, or
17 matters that the director considers necessary or proper to aid in
18 the enforcement of a law or rule;

19 (3) aid in adopting rules;

20 (4) secure information as a basis for recommending
21 legislation relating to this chapter; and

22 (5) determine whether a licensee is able to meet the
23 licensee's financial obligations, including all financial
24 obligations imposed by this chapter, as they become due.

25 (b) If after an investigation the executive director is
26 satisfied that a license, registration, finding of suitability, or
27 prior approval by the commission of a transaction for which

1 approval was required or permitted under this chapter should be
2 limited, conditioned, suspended, or revoked, or that a fine should
3 be levied, the executive director shall initiate a hearing by
4 filing a complaint with the commission and transmit a summary of
5 evidence that bears on the matter and the transcript of testimony at
6 an investigative hearing conducted by or on behalf of the executive
7 director regarding the licensee. The complaint must be a written
8 statement of charges that must set forth in ordinary and concise
9 language the acts or omission with which the respondent is charged.
10 The complaint must specify the statute or rule that the respondent
11 is alleged to have violated. A complaint must contain a factual
12 allegation and shall not consist merely of charges raised on the
13 language of the statute or rule. On the filing of the complaint,
14 the executive director shall serve a copy of the complaint on the
15 respondent either personally or by registered or certified mail at
16 the respondent's address on file with the executive director.

17 (c) Except as provided by Section 2004.455, the respondent
18 must answer not later than the 30th day after the date of the
19 service of the complaint.

20 (d) On receipt of the complaint of the executive director,
21 the commission shall review all matter presented in support and
22 shall appoint a hearing examiner to conduct further proceedings.

23 (e) The hearing examiner shall conduct proceedings under
24 Chapter 2001, Government Code. After the proceedings, the hearing
25 examiner may recommend that the commission take any appropriate
26 action, including revocation, suspension, limitation or
27 conditioning of a license, or imposition of a fine not to exceed

1 \$5,000 for each violation.

2 (f) The commission shall review the recommendation. The
3 commission may remand the case to the hearing examiner for the
4 presentation of additional evidence on a showing of good cause as to
5 why the evidence could not have been presented at the previous
6 hearing.

7 (g) The commission shall accept, reject, or modify the
8 recommendation.

9 (h) If the commission limits, conditions, suspends, or
10 revokes a license or imposes a fine, or limits, conditions,
11 suspends, or revokes a registration, finding of suitability, or
12 prior approval, the commission shall issue its written order.

13 (i) A limitation, condition, revocation, suspension, or
14 fine imposed is effective until reversed following judicial review,
15 except that the commission may stay its order pending a rehearing or
16 judicial review on terms and conditions as it considers proper.

17 (j) Judicial review of an order or decision of the
18 commission may be had under Chapter 2001, Government Code.
19 Judicial review is under the substantial evidence rule.

20 Sec. 2004.552. PRIVILEGED DOCUMENTS. (a) A communication
21 or document of an applicant or licensee that is required by law or
22 commission rule or by a subpoena issued by the commission and that
23 is to be made or transmitted to the commission or the executive
24 director is privileged and does not impose liability for defamation
25 or constitute a ground for recovery in a civil action.

26 (b) If a document or communication contains information
27 that is privileged, the privilege is not waived or lost because the

1 document or communication is disclosed to the commission or the
2 executive director.

3 (c) Notwithstanding the powers granted to the commission
4 and the executive director by this chapter:

5 (1) the commission and the executive director may not
6 release or disclose privileged information, documents, or
7 communications provided by an applicant and required by a lawful
8 court order after timely notice of the proceedings has been given to
9 the applicant or licensee without the prior written consent of the
10 applicant or licensee;

11 (2) the commission and the executive director shall
12 maintain all privileged information, documents, and communications
13 in a secure place accessible only to members of the commission and
14 the executive director; and

15 (3) the commission shall adopt procedures to protect
16 the privileged nature of information, documents, and
17 communications provided by an applicant or licensee.

18 Sec. 2004.553. RELEASE OF CONFIDENTIAL INFORMATION. An
19 application to a court for an order requiring the commission or the
20 executive director to release any information declared by law to be
21 confidential shall be made only on a motion in writing delivered not
22 later than the 10th day before the date of application to the
23 commission, the attorney general, and all persons who may be
24 affected by the entry of the order. Copies of the motion and all
25 papers filed in support of it shall be served with the notice by
26 delivering a copy in person or by certified mail to the last known
27 address of the person to be served.

1 Sec. 2004.554. EMERGENCY ORDERS. (a) The commission may
2 issue an emergency order for suspension, limitation, or
3 conditioning of a license, registration, finding of suitability, or
4 work permit or may issue an emergency order requiring a casino to
5 keep an individual licensee from the premises of the licensed
6 gaming establishment or to not pay the licensee any remuneration
7 for services or any profits, income, or accruals on the licensee's
8 investment in the casino.

9 (b) An emergency order may be issued only if the commission
10 determines that:

11 (1) a licensee has wilfully failed to report, pay, or
12 truthfully account for a fee imposed under this chapter or wilfully
13 attempted in any manner to evade or defeat a fee or payment;

14 (2) a licensee or gaming employee has cheated at a
15 gambling game; or

16 (3) the action is necessary for the immediate
17 preservation of the public peace, health, safety, morals, good
18 order, or general welfare.

19 (c) The emergency order must state the grounds on which it
20 is issued, including a statement of facts constituting the alleged
21 emergency necessitating the action.

22 (d) An emergency order may be issued only with the approval
23 of and under the signature of four or more members of the
24 commission.

25 (e) An emergency order is effective immediately on issuance
26 and service on the licensee or resident agent of the licensee,
27 gaming employee, or, in cases involving registration or findings of

1 suitability, on issuance and service on the person or entity
2 involved or resident agent of the entity involved. An emergency
3 order may suspend, limit, condition, or take other action in
4 relation to the license of one or more persons in an operation
5 without affecting other individual licensees or the casino. An
6 emergency order remains effective until further order of the
7 commission or final disposition of the case.

8 (f) Not later than the fifth day after the date of issuance
9 of an emergency order, the executive director shall file a
10 complaint and serve it on the person or entity involved. The person
11 or entity against whom the emergency order has been issued and
12 served is entitled to a hearing before the commission and to
13 judicial review of the decision and order of the commission under
14 Chapter 2001, Government Code. Judicial review is under the
15 substantial evidence rule.

16 Sec. 2004.555. INJUNCTIVE RELIEF. (a) The commission may
17 commence an action in its own name for an injunction to restrain a
18 violation of this chapter. An action under this section is in
19 addition to any other action authorized by law.

20 (b) The attorney general or the appropriate county or
21 district attorney shall represent the commission in an action under
22 this section.

23 Sec. 2004.556. CEASE AND DESIST ORDER. (a) If it appears
24 to the commission that a person who is not licensed under this
25 chapter is violating this chapter, a rule adopted under this
26 chapter, or another state statute or rule relating to gaming, the
27 commission after notice and opportunity for a hearing may issue a

1 cease and desist order prohibiting the person from engaging in the
2 activity.

3 (b) A violation of an order under this section constitutes
4 grounds for imposing a fine under this chapter.

5 [Sections 2004.557-2004.600 reserved for expansion]

6 SUBCHAPTER M. PENALTIES AND OFFENSES

7 Sec. 2004.601. FAILURE TO PAY FEES. (a) License fees and
8 other fees required by this chapter must be paid to the commission
9 on or before the dates provided by law for each fee.

10 (b) A person failing to timely pay a fee or tax when due
11 shall pay in addition a penalty of not less than \$50 or 25 percent of
12 the amount due, whichever is the greater. The penalty may not
13 exceed \$1,000 if the fee or tax is less than 10 days late and may not
14 exceed \$5,000 under any circumstances. The penalty shall be
15 collected as are other charges, license fees, and penalties under
16 this chapter.

17 Sec. 2004.602. FAILURE TO REPORT, PAY, OR ACCOUNT FOR FEE OR
18 TAX. (a) A person commits an offense if the person wilfully fails
19 to report, pay, or truthfully account for a fee or tax imposed under
20 this chapter or wilfully attempts in any manner to evade or defeat a
21 fee or tax.

22 (b) An offense under this section is a Class A misdemeanor.

23 Sec. 2004.603. FRAUD. (a) A person commits an offense if
24 the person knowingly:

25 (1) alters or misrepresents the outcome of a game or
26 other event on which wagers have been made after the outcome is made
27 sure but before it is revealed to the players;

1 (2) places, increases, or decreases a bet or
2 determines the course of play after acquiring knowledge, not
3 available to all players, of the outcome of the game or an event
4 that affects the outcome of the game or that is the subject of the
5 bet or aids anyone in acquiring such knowledge for the purpose of
6 placing, increasing, or decreasing a bet or determining the course
7 of play contingent on that event or outcome;

8 (3) claims, collects, or takes, or attempts to claim,
9 collect, or take, money or anything of value in or from a gambling
10 game, with intent to defraud, without having made a wager
11 contingent on the game, or claims, collects, or takes an amount
12 greater than the amount won;

13 (4) entices or induces another to go to a place where a
14 gambling game is being conducted or operated in violation of this
15 chapter, with the intent that the other person play or participate
16 in that gambling game;

17 (5) places or increases a bet after acquiring
18 knowledge of the outcome of the game or other event that is the
19 subject of the bet, including past posting and pressing bets;

20 (6) reduces the amount wagered or cancels the bet
21 after acquiring knowledge of the outcome of the game or other event
22 that is the subject of the bet, including pinching bets; or

23 (7) manipulates, with the intent to cheat, a component
24 of a gaming device in a manner contrary to the designed and normal
25 operational purpose for the component, including varying the pull
26 of the handle of a slot machine, with knowledge that the
27 manipulation affects the outcome of the game or with knowledge of an

1 event that affects the outcome of the game.

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

4 Sec. 2004.604. USE OF PROHIBITED DEVICES. (a) A person
5 commits an offense if the person, at a casino, uses or possesses
6 with the intent to use a device, other than those customarily used
7 in the conduct of gaming to assist in:

8 (1) projecting the outcome of the game;

9 (2) keeping track of the cards played;

10 (3) analyzing the probability of the occurrence of an
11 event relating to the game; or

12 (4) analyzing the strategy for playing or betting to
13 be used in the game.

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

16 Sec. 2004.605. USE OF COUNTERFEIT OR UNAUTHORIZED TOKEN,
17 CHIP, OR COIN. (a) A person commits an offense if the person
18 knowingly uses counterfeit chips or tokens in a gambling game.

19 (b) A person commits an offense if the person, in playing
20 any gambling game designed to receive, be played with, or be
21 operated by chips or tokens approved by the executive director or by
22 lawful coin of the United States of America:

23 (1) knowingly uses a chip, token, or coin other than
24 chips or tokens approved by the commission or lawful coin of the
25 United States of America, or uses a coin not of the same
26 denomination as the coin intended to be used in that gambling game;

27 or

1 (2) uses any device or means to violate the provisions
2 of this chapter.

3 (c) A person, other than an authorized employee of an owner
4 licensee acting in furtherance of the person's employment within an
5 establishment, commits an offense if the person knowingly has on
6 the person's body or in the person's possession on or off the
7 premises of a casino a device intended to be used to violate the
8 provisions of this chapter.

9 (d) A person, other than an authorized employee of an owner
10 licensee acting in furtherance of the person's employment within an
11 establishment, commits an offense if the person knowingly has on
12 the person's body or in the person's possession on or off the
13 premises of a casino a key or device known to have been designed for
14 the purpose of and suitable for opening, entering, or affecting the
15 operation of a gambling game, a drop box, or an electronic or
16 mechanical device connected to the game or box or for removing money
17 or other contents from the game or box.

18 (e) A person commits an offense if the person knowingly has
19 on the person's body or in the person's possession paraphernalia for
20 manufacturing slugs for use in gaming devices. In this subsection,
21 "paraphernalia for manufacturing slugs" means the equipment,
22 products, and materials that are intended for use or designed for
23 use in manufacturing, producing, fabricating, preparing, testing,
24 analyzing, packaging, storing, or concealing a counterfeit
25 facsimile of the chips or tokens approved by the executive director
26 or a lawful coin of the United States, the use of which is an offense
27 under Subsection (b). The term includes:

1 (1) lead or lead alloys;

2 (2) molds, forms, or similar equipment capable of
3 producing a likeness of a gaming token or United States coin;

4 (3) melting pots or other receptacles;

5 (4) torches; and

6 (5) tongs, trimming tools, or other similar equipment.

7 (f) Possession of more than one of the devices, equipment,
8 products, or materials described in this section permits a
9 rebuttable inference that the possessor intended to use them for
10 cheating.

11 (g) An offense under this section is a felony of the third
12 degree.

13 Sec. 2004.606. CHEATING. (a) A person commits an offense
14 if the person knowingly cheats at any gambling game.

15 (b) An offense under this section is a state jail felony.

16 Sec. 2004.607. POSSESSION OF UNLAWFUL DEVICES. (a) A
17 person commits an offense if the person knowingly possesses any
18 slot machine or other gaming device that has been manufactured,
19 sold, or distributed in violation of this chapter.

20 (b) An offense under this section is a Class A misdemeanor.

21 Sec. 2004.608. UNLAWFUL MANUFACTURE, SALE, OR DISTRIBUTION
22 OF GAMING EQUIPMENT. (a) A person commits an offense if the person
23 manufactures, sells, or distributes cards, chips, dice, a game, or
24 a device intended to be used to violate a provision of this chapter.

25 (b) A person commits an offense if the person marks, alters,
26 or otherwise modifies any associated equipment or gaming device in
27 a manner that:

1 (1) affects the result of a wager by determining win or
2 loss; or

3 (2) alters the normal criteria of random selection
4 that affect the operation of a game or determine the outcome of a
5 game.

6 (c) A person commits an offense if the person instructs
7 another person in cheating or in the use of a device for cheating at
8 any game authorized to be conducted at a casino, with the knowledge
9 or intent that the information or use may be employed to violate a
10 provision of this chapter.

11 (d) An offense under this section is a felony of the third
12 degree.

13 Sec. 2004.609. REPORTING PENALTIES. (a) A person commits
14 an offense if the person, in a license application, in a book or
15 record required to be maintained by this chapter or a rule adopted
16 under this chapter, or in a report required to be submitted by this
17 chapter or a rule adopted under this chapter:

18 (1) makes a statement or entry that the person knows to
19 be false or misleading; or

20 (2) knowingly fails to maintain or make an entry the
21 person knows is required to be maintained or made.

22 (b) A person commits an offense if the person knowingly
23 refuses to produce for inspection by the executive director a book,
24 record, or document required to be maintained or made by this
25 chapter or a rule adopted under this chapter.

26 (c) An offense under this section is a Class A misdemeanor.

27 Sec. 2004.610. GAMING BY MINORS. (a) A person commits an

1 offense if the person knowingly permits an individual that the
2 person knows is younger than 21 years of age to participate in
3 gaming at a casino.

4 (b) An individual younger than 21 years of age commits an
5 offense if the individual participates in gaming at a casino.

6 (c) An offense under this section is a Class C misdemeanor.

7 Sec. 2004.611. GENERAL PENALTY. (a) A person commits an
8 offense if the person knowingly or wilfully violates, attempts to
9 violate, or conspires to violate a provision of this chapter
10 specifying a prohibited act.

11 (b) Unless another penalty is specified for the offense, an
12 offense under this section is a Class A misdemeanor.

13 [Sections 2004.612-2004.650 reserved for expansion]

14 SUBCHAPTER N. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

15 Sec. 2004.651. PUBLIC INTEREST INFORMATION. (a) The
16 commission shall prepare and disseminate consumer information that
17 describes the regulatory functions of the commission and the
18 procedures by which consumer complaints are filed with and resolved
19 by the commission.

20 (b) The commission shall make the information available to
21 the public and appropriate state agencies.

22 Sec. 2004.652. COMPLAINTS. (a) The commission by rule
23 shall establish methods by which consumers and service recipients
24 are notified of the name, mailing address, and telephone number of
25 the commission for the purpose of directing complaints to the
26 commission. The commission may provide for that notice:

27 (1) on each form, application, or written contract for

1 services of a person regulated under this chapter;

2 (2) on a sign prominently displayed in the place of
3 business of each person regulated under this chapter; or

4 (3) in a bill for service provided by a person
5 regulated under this chapter.

6 (b) The commission shall list with its regular telephone
7 number any toll-free telephone number established under other state
8 law that may be called to present a complaint about a person
9 regulated under this chapter.

10 Sec. 2004.653. RECORDS OF COMPLAINTS. (a) The commission
11 shall maintain a system to promptly and efficiently act on
12 complaints filed with the commission. The commission shall
13 maintain:

14 (1) information about the parties to the complaint and
15 the subject matter of the complaint;

16 (2) a summary of the results of the review or
17 investigation of the complaint; and

18 (3) information about the disposition of the
19 complaint.

20 (b) The commission shall make information available
21 describing its procedures for complaint investigation and
22 resolution.

23 (c) The commission shall periodically notify the parties of
24 the status of the complaint until final disposition of the
25 complaint.

26 Sec. 2004.654. GENERAL RULES REGARDING COMPLAINT
27 INVESTIGATION AND DISPOSITION. The commission shall adopt rules

1 concerning the investigation of a complaint filed with the
2 commission. The rules must:

3 (1) distinguish between categories of complaints;

4 (2) ensure that complaints are not dismissed without
5 appropriate consideration;

6 (3) require that the commission be advised of a
7 complaint that is dismissed and that a letter be sent to the person
8 who filed the complaint explaining the action taken on the
9 dismissed complaint;

10 (4) ensure that the person who files a complaint has an
11 opportunity to explain the allegations made in the complaint; and

12 (5) prescribe guidelines concerning the categories of
13 complaints that require the use of a private investigator and the
14 procedures for the commission to obtain the services of a private
15 investigator.

16 Sec. 2004.655. DISPOSITION OF COMPLAINT. (a) The
17 commission shall:

18 (1) dispose of each complaint in a timely manner; and

19 (2) establish a schedule for conducting each phase of
20 a complaint that is under the control of the commission not later
21 than the 30th day after the date the commission receives the
22 complaint.

23 (b) Each party shall be notified of the projected time
24 requirements for pursuing the complaint. The commission shall
25 notify each party to the complaint of any change in the schedule
26 established under Subsection (a)(2) not later than the seventh day
27 after the date the change is made.

1 (c) The executive director shall notify the commission of a
2 complaint that is not resolved within the time prescribed by the
3 commission for resolving the complaint.

4 Sec. 2004.656. PUBLIC PARTICIPATION. (a) The commission
5 shall develop and implement policies that provide the public with a
6 reasonable opportunity to appear before the commission and to speak
7 on any issue under the commission's jurisdiction.

8 (b) The commission shall prepare and maintain a written plan
9 that describes how a person who does not speak English may be
10 provided reasonable access to the commission's programs.

11 Sec. 2004.657. INFORMAL SETTLEMENT CONFERENCE. The
12 commission shall establish guidelines for an informal settlement
13 conference related to a complaint filed with the commission.

14 SECTION 2.02. Section 47.01, Penal Code, is amended by
15 amending Subdivisions (4) and (9) and adding Subdivision (10) to
16 read as follows:

17 (4) "Gambling device" means any device:

18 (A) on which a game or other activity can be
19 played or conducted for consideration; and

20 (B) that is designed, constructed, adapted, or
21 maintained to afford a user of the device an opportunity to obtain a
22 thing of value based solely or partially on chance [~~electronic,~~
23 ~~electromechanical, or mechanical contrivance not excluded under~~
24 ~~Paragraph (B) that for a consideration affords the player an~~
25 ~~opportunity to obtain anything of value, the award of which is~~
26 ~~determined solely or partially by chance, even though accompanied~~
27 ~~by some skill, whether or not the prize is automatically paid by the~~

1 ~~contrivance. The term:~~

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

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

18 (9) "Thing of value" means any property, money, right,
19 privilege, or other benefit, including a representation of value
20 redeemable for any property, money, right, privilege, or other
21 benefit [~~but does not include an unrecorded and immediate right of~~
22 ~~replay not exchangeable for value].~~

23 (10) "Device" includes all or part of an operable or
24 inoperable mechanical, electronic, or electromechanical
25 contrivance, machine, or apparatus.

26 SECTION 2.03. Section 47.02(c), Penal Code, is amended to
27 read as follows:

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

3 (1) was permitted under Chapter 2001, Occupations
4 Code;

5 (2) was permitted under Chapter 2002, Occupations
6 Code;

7 (3) consisted entirely of participation in the state
8 lottery or video lottery authorized by the State Lottery Act
9 (Chapter 466, Government Code);

10 (4) was permitted under the Texas Racing Act (Article
11 179e, Vernon's Texas Civil Statutes); ~~or~~

12 (5) consisted entirely of participation in a drawing
13 for the opportunity to participate in a hunting, fishing, or other
14 recreational event conducted by the Parks and Wildlife Department;
15 or

16 (6) was permitted under the Texas Economic Development
17 and Gaming Control Act (Chapter 2004, Occupations Code).

18 SECTION 2.04. Sections 47.06(e) and (f), Penal Code, are
19 amended to read as follows:

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

22 (f) It is a defense to prosecution under Subsection (a) or
23 (c) that the person owned, manufactured, transferred, or possessed
24 the gambling device, equipment, or paraphernalia for the sole
25 purpose of shipping it:

26 (1) to a casino licensed under Chapter 2004,
27 Occupations Code, for casino gaming; or

1 (2) to another jurisdiction where the possession or
2 use of the device, equipment, or paraphernalia was legal.

3 SECTION 2.05. Section 47.09(a), Penal Code, is amended to
4 read as follows:

5 (a) It is a defense to prosecution under this chapter that
6 the conduct:

7 (1) was authorized under:

8 (A) Chapter 2001, Occupations Code (Bingo
9 Enabling Act);

10 (B) Chapter 2002, Occupations Code (Charitable
11 Raffle Enabling Act); ~~[or]~~

12 (C) the Texas Racing Act (Article 179e, Vernon's
13 Texas Civil Statutes); or

14 (D) Chapter 2004, Occupations Code (the Texas
15 Economic Development and Gaming Control Act);

16 (2) consisted entirely of participation in the state
17 lottery or video lottery authorized by Chapter 466, Government
18 Code; or

19 (3) was a necessary incident to the operation of the
20 state lottery or video lottery and was directly or indirectly
21 authorized by~~+~~

22 ~~[(A)] Chapter 466, Government Code~~~~+~~

23 ~~[(B) the lottery division of the Texas Lottery~~
24 ~~Commission,~~

25 ~~[(C) the Texas Lottery Commission, or~~

26 ~~[(D) the director of the lottery division of the~~
27 ~~Texas Lottery Commission].~~

1 SECTION 2.06. Chapter 47, Penal Code, is amended by adding
2 Section 47.091 to read as follows:

3 Sec. 47.091. DEFENSES FOR CERTAIN AMUSEMENT DEVICES. (a)

4 It is a defense to prosecution under Section 47.02 that the conduct
5 consists entirely of the use of a gambling device in which:

6 (1) skill is the predominate requirement for the user
7 to win or be awarded a thing of value; and

8 (2) the user may not win or be awarded a thing of value
9 for playing or using the device other than:

10 (A) noncash merchandise available only on the
11 premises where the device is located; or

12 (B) a ticket, coupon, or other representation of
13 value redeemable only on the premises where the device is located
14 for noncash merchandise.

15 (b) For purposes of Subsection (a)(2):

16 (1) the noncash merchandise or representation of value
17 redeemable for noncash merchandise that may be won or awarded for a
18 single play of a game or activity on the device may not have a
19 wholesale value of more than 10 times the amount charged for a
20 single play or \$5, whichever is less; and

21 (2) an item of noncash merchandise that may be won or
22 awarded for playing or using the device or for which a person may
23 redeem one or more tickets, coupons, or other representations of
24 value won or awarded for playing or using the device may not have a
25 wholesale value of more than \$50.

26 (c) It is a defense to prosecution under Section 47.02 that:

27 (1) the conduct consists entirely of the use of a

1 gambling device for which the user of the device may win or be
2 awarded only the opportunity to continue playing the game or
3 conducting an activity on the device; and

4 (2) the opportunity to continue is not exchangeable
5 for another thing of value.

6 (d) It is a defense to prosecution under Section 47.03,
7 47.04, or 47.06 that the conduct consists of or is a necessary
8 incident to offering, using, or maintaining one or more gambling
9 devices used exclusively for conduct for which Subsection (a) or
10 (c) provides a defense to a person using the device, including the
11 manufacturing, transporting, storing, or repairing of such a
12 device.

13 (e) In this section, "noncash merchandise" does not
14 include:

15 (1) a check, money order, or cashier's check;

16 (2) a traveler's check; or

17 (3) any other item of cash equivalence.

18 SECTION 2.07. Chapter 47, Penal Code, is amended by adding
19 Section 47.095 to read as follows:

20 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
21 a defense to prosecution under this chapter that a person sells,
22 leases, transports, possesses, stores, or manufactures a gambling
23 device with the authorization of the Texas Lottery Commission under
24 Chapter 466, Government Code, or of the Texas Gaming and Boxing
25 Commission under Chapter 2004, Occupations Code.

26 SECTION 2.08. Section 11.05, Texas Racing Act (Article
27 179e, Vernon's Texas Civil Statutes), is amended to read as

1 follows:

2 Sec. 11.05. UNLAWFUL WAGERING. A person shall not wager on
3 the result of a greyhound race or horse race in this state except as
4 permitted by this Act or by Chapter 2004, Occupations Code (the
5 Texas Economic Development and Gaming Control Act).

6 SECTION 2.09. All funds in the Texas casino gaming fund are
7 appropriated to the Texas Gaming and Boxing Commission for the
8 operation of the commission and the administration of the Texas
9 Economic Development and Gaming Control Act (Chapter 2004,
10 Occupations Code), as added by Section 2.01 of this article, for the
11 biennium ending August 31, 2007.

12 SECTION 2.10. The governor shall make the initial
13 appointments to the Texas Gaming and Boxing Commission not later
14 than January 1, 2006. In making the initial appointments to the
15 Texas Gaming and Boxing Commission, the governor shall designate
16 two members for terms expiring in 2007, two members for terms
17 expiring in 2009, and two members for terms expiring in 2011.

18 SECTION 2.11. Section 47.02(e), Penal Code, is repealed.

19 SECTION 2.12. The change in law made by this article applies
20 only to an offense committed on or after the effective date of this
21 article. An offense committed before the effective date of this
22 article is covered by the law in effect when the offense was
23 committed, and the former law is continued in effect for that
24 purpose. For purposes of this section, an offense was committed
25 before the effective date of this article if any element of the
26 offense was committed before that date.

27 SECTION 2.13. This article takes effect on the date the

1 constitutional amendment proposed by the 79th Legislature, Regular
2 Session, 2005, authorizing a state video lottery system to operate
3 video lottery games at racetracks and on Indian lands and
4 authorizing casino gaming at 12 tourist destination locations in
5 this state and on Indian land is approved by the voters. If that
6 amendment is not approved by the voters, this article has no effect.

7 ARTICLE 3. TRANSFER OF POWERS AND DUTIES OF OTHER STATE AGENCIES TO
8 TEXAS GAMING AND BOXING COMMISSION

9 SECTION 3.01. Section 466.002(1), Government Code, is
10 amended to read as follows:

11 (1) "Commission" means the Texas Gaming and Boxing
12 [~~Lottery~~] Commission.

13 SECTION 3.02. Section 2001.002(8), Occupations Code, is
14 amended to read as follows:

15 (8) "Commission" means the Texas Gaming and Boxing
16 [~~Lottery~~] Commission.

17 SECTION 3.03. Sections 2052.002(4), (5), (8-a), and (15-a),
18 Occupations Code, are amended to read as follows:

19 (4) "Commission" means the Texas Gaming and Boxing
20 Commission [~~of Licensing and Regulation~~].

21 (5) "Division" [~~"Department"~~] means the combative
22 sports division of the commission [~~Texas Department of Licensing~~
23 ~~and Regulation~~].

24 (8-a) "Executive director" means the executive
25 director of the commission [~~department~~] or the executive director's
26 designated representative.

27 (15-a) "Ringside physician" means an individual

1 licensed to practice medicine in this state who is registered with
2 the division [~~department~~].

3 SECTION 3.04. Section 2052.051, Occupations Code, is
4 amended to read as follows:

5 Sec. 2052.051. ADMINISTRATION OF CHAPTER. The commission
6 [~~department~~] shall administer this chapter.

7 SECTION 3.05. Section 2052.052(b), Occupations Code, is
8 amended to read as follows:

9 (b) The commission may adopt rules:

10 (1) governing professional kickboxing contests and
11 exhibitions;

12 (2) establishing reasonable qualifications for an
13 applicant seeking a license from the division [~~department~~] under
14 this chapter;

15 (3) recognizing a sanction, medical suspension, or
16 disqualification of a license holder by a combative sports
17 authority in any state, provided that if licensure is denied based
18 on those actions, an applicant has a right to a hearing as
19 prescribed by rule;

20 (4) establishing practice requirements or specialty
21 certifications that a person licensed to practice medicine in this
22 state must meet to register as a ringside physician;

23 (5) requiring a contestant to present to the executive
24 director at the time of weigh-in an original copy of recent blood
25 test results that demonstrate whether the contestant is free from
26 hepatitis B virus, hepatitis C virus, human immunodeficiency virus,
27 and any other communicable disease designated by commission rule

1 and providing that a contestant's failure to provide the required
2 blood test results disqualifies the contestant;

3 (6) providing that to participate in any event a
4 contestant must be free of hepatitis B virus, hepatitis C virus,
5 human immunodeficiency virus, and any other communicable disease
6 designated by rule;

7 (7) requiring that a contestant undergo a physical
8 examination, including an ophthalmological examination, at or near
9 the time of weigh-in and providing for disqualification of a
10 contestant who is determined by an examining physician to be unfit;
11 and

12 (8) establishing additional responsibilities for
13 promoters.

14 SECTION 3.06. Section 2052.055(a), Occupations Code, is
15 amended to read as follows:

16 (a) The presiding officer of the commission, with the
17 commission's approval, may appoint a medical advisory committee to
18 advise the division [~~department~~] concerning health issues for
19 boxing event contestants.

20 SECTION 3.07. Section 2052.109(c), Occupations Code, is
21 amended to read as follows:

22 (c) A company that issues a bond shall notify the division
23 [~~department~~] in writing of the cancellation of the bond not later
24 than the 30th day before the date on which the bond is canceled.

25 SECTION 3.08. Section 2052.114(b), Occupations Code, is
26 amended to read as follows:

27 (b) The holder of a license, registration, or permit may

1 renew the license, registration, or permit by paying a renewal fee
2 and complying with other renewal requirements prescribed by
3 division [~~department~~] rule before the expiration date. The
4 division [~~department~~] shall issue a renewal certificate to the
5 holder at the time of renewal.

6 SECTION 3.09. Sections 2052.152(a) and (c), Occupations
7 Code, are amended to read as follows:

8 (a) A person on whom a tax is imposed under Section
9 2052.151, not later than 72 hours after the end of the event or
10 telecast for which the tax is due, shall submit to the division
11 [~~department~~] a verified report on a form furnished by the division
12 [~~department~~] stating:

- 13 (1) the number of tickets sold to the event;
- 14 (2) the ticket prices charged;
- 15 (3) the gross price charged for the sale or lease of
16 broadcasting, television, and motion picture rights without any
17 deductions for commissions, brokerage fees, distribution fees,
18 advertising, or other expenses or charges; and
- 19 (4) the amount of gross receipts obtained from the
20 event.

21 (c) The division [~~department~~] may audit a report filed under
22 Subsection (b).

23 SECTION 3.10. Section 2052.202(a), Occupations Code, is
24 amended to read as follows:

25 (a) An elimination tournament contestant must register with
26 the division [~~department~~] for a tournament not later than the 30th
27 day before the date of the tournament. The division [~~department~~]

1 shall prescribe the registration form.

2 SECTION 3.11. Section 2052.203, Occupations Code, is
3 amended to read as follows:

4 Sec. 2052.203. ELIMINATION TOURNAMENT BOXING PROMOTER
5 RESPONSIBILITIES. (a) An elimination tournament boxing promoter
6 shall require that each elimination tournament contestant:

7 (1) be at least 18 years old and younger than 36 years
8 old;

9 (2) submit proof that the contestant has received
10 proper training, including a written description of the
11 contestant's training program during the 28 days before the
12 elimination tournament;

13 (3) have no professional boxing experience;

14 (4) have fewer than six boxing match wins during the
15 preceding five years that are recognized by an amateur boxing
16 organization that is recognized under commission [~~department~~]
17 rules for this purpose;

18 (5) use 16-ounce gloves; and

19 (6) wear the following protective gear provided by the
20 promoter:

21 (A) except as provided by Subsection (b),
22 headgear approved by the division [~~department~~];

23 (B) a mouthpiece; and

24 (C) a groin guard or kidney-groin guard approved
25 by the division [~~department~~].

26 (b) The elimination tournament boxing promoter of a local,
27 regional, or championship elimination tournament is not required to

1 require that each elimination tournament contestant wear headgear
2 approved by the division [~~department~~] if the promoter under
3 commission [~~department~~] rules notifies the executive director of
4 the decision not to use the approved headgear.

5 SECTION 3.12. Section 2052.302(b), Occupations Code, is
6 amended to read as follows:

7 (b) The promoter shall surrender any purse or funds withheld
8 as provided by Subsection (a) to the executive director on demand.
9 Not later than the fifth working day after the event, the division
10 [~~department~~] shall notify in writing the promoter and any person
11 from whom a sum was withheld of the date of a hearing to determine
12 whether all or part of the purse or funds withheld should be
13 forfeited to the state. The hearing must be scheduled for a date
14 not later than the 10th day after the date of the notice. Not later
15 than the 10th day after the date of the hearing, the executive
16 director shall enter an order with findings of fact and conclusions
17 of law determining whether all or part of the purse or funds should
18 be forfeited. Any funds not forfeited shall be distributed to the
19 persons entitled to the funds.

20 SECTION 3.13. Section 2052.303(b), Occupations Code, is
21 amended to read as follows:

22 (b) The attorney general or the commission [~~department~~] may
23 file a civil suit to:

24 (1) assess and recover a civil penalty under
25 Subsection (a); or

26 (2) enjoin a person who violates or threatens to
27 violate this chapter or a rule adopted under this chapter from

1 continuing the violation or threat.

2 SECTION 3.14. Sections 1.03(3) and (5), Texas Racing Act
3 (Article 179e, Vernon's Texas Civil Statutes), are amended to read
4 as follows:

5 (3) "Commission" means the Texas Gaming and Boxing
6 ~~[Racing]~~ Commission.

7 (5) "Executive secretary" means the executive
8 director ~~[secretary]~~ of the Texas Gaming and Boxing ~~[Racing]~~
9 Commission.

10 SECTION 3.15. The heading to Article 2, Texas Racing Act
11 (Article 179e, Vernon's Texas Civil Statutes), is amended to read
12 as follows:

13 ARTICLE 2. TEXAS GAMING AND BOXING ~~[RACING]~~ COMMISSION

14 SECTION 3.16. Section 3.09(b), Texas Racing Act (Article
15 179e, Vernon's Texas Civil Statutes), is amended to read as
16 follows:

17 (b) The commission shall deposit the money it collects under
18 this Act in the State Treasury to the credit of a special fund to be
19 known as the Texas Racing ~~[Commission]~~ fund. The Texas Racing
20 ~~[Commission]~~ fund may be appropriated only for the administration
21 and enforcement of this Act. Any unappropriated money remaining in
22 that special fund at the close of each fiscal biennium shall be
23 transferred to the General Revenue Fund and may be appropriated for
24 any legal purpose. The legislature may also appropriate money from
25 the General Revenue Fund for the administration and enforcement of
26 this Act. Any amount of general revenue appropriated for the
27 administration and enforcement of this Act in excess of the

1 cumulative amount deposited in the Texas Racing [~~Commission~~] fund
2 shall be reimbursed from the Texas Racing [~~Commission~~] fund not
3 later than one year after the date on which the general revenue
4 funds are appropriated, with 12 percent interest per year until
5 August 31, 1993, and 6 3/4 percent interest thereafter with all
6 payments first attributable to interest.

7 SECTION 3.17. Section 6.091(a), Texas Racing Act (Article
8 179e, Vernon's Texas Civil Statutes), is amended to read as
9 follows:

10 (a) An association shall distribute from the total amount
11 deducted as provided by Sections 6.08(a) and 6.09(a) of this Act
12 from each simulcast pari-mutuel pool and each simulcast
13 cross-species pool the following shares:

14 (1)(A) until January 1, 1999, an amount equal to 0.25
15 percent of each simulcast pari-mutuel pool and each simulcast
16 cross-species simulcast pool as the amount set aside to reimburse
17 the general revenue fund for amounts that are appropriated for the
18 administration and enforcement of this Act and that are in excess of
19 the cumulative amount of funds deposited in the Texas Racing
20 [~~Commission~~] fund, until the excess amount and interest on the
21 excess amount are fully reimbursed;

22 (B) an amount equal to one percent of each
23 simulcast pool as the amount set aside for the state; and

24 (C) an amount equal to 1.25 percent of each
25 cross-species simulcast pool as the amount set aside for the state;

26 (2) an amount equal to 0.25 percent of each pool set
27 aside to reimburse the general revenue fund for amounts that are

1 appropriated for the administration and enforcement of this Act and
2 that are in excess of the cumulative amount of funds deposited in
3 the Texas Racing [~~Commission~~] fund, until the excess amount and
4 interest on the excess amount are fully reimbursed;

5 (3) if the association is a horse racing association,
6 an amount equal to one percent of a multiple two wagering pool or
7 multiple three wagering pool as the amount set aside for the
8 Texas-bred program to be used as provided by Section 6.08(f) of this
9 Act;

10 (4) if the association is a greyhound association, an
11 amount equal to one percent of a multiple two wagering pool or a
12 multiple three wagering pool as the amount set aside for the
13 Texas-bred program for greyhound races, to be distributed and used
14 in accordance with rules of the commission adopted to promote
15 greyhound breeding in this state; and

16 (5) the remainder as the amount set aside for purses,
17 expenses, the sending association, and the receiving location
18 pursuant to a contract approved by the commission between the
19 sending association and the receiving location.

20 SECTION 3.18. Section 18.01(a), Texas Racing Act (Article
21 179e, Vernon's Texas Civil Statutes), is amended to read as
22 follows:

23 (a) This Act [~~The Texas Racing Commission~~] is subject to
24 Chapter 325, Government Code (Texas Sunset Act). Unless continued
25 in existence as provided by that chapter, and except as provided by
26 Subsections (b) and (c) of this section, [~~the commission is~~
27 ~~abolished and~~] this Act expires September 1, 2009.

1 SECTION 3.19. The following are repealed:

2 (1) Chapter 467, Government Code;

3 (2) Sections 2.01-2.05, Texas Racing Act (Article
4 179e, Vernon's Texas Civil Statutes);

5 (3) Sections 2.073-2.11, Texas Racing Act (Article
6 179e, Vernon's Texas Civil Statutes); and

7 (4) Section 6.093(a), Texas Racing Act (Article 179e,
8 Vernon's Texas Civil Statutes).

9 SECTION 3.20. (a) On September 1, 2007, or an earlier date
10 specified in the transition plan required under Section 3.22 of
11 this article, the following powers, duties, functions, programs,
12 and activities are transferred to the Texas Gaming and Boxing
13 Commission:

14 (1) all powers, duties, functions, programs, and
15 activities related to administrative support services, such as
16 strategic planning and evaluation, audit, legal, human resources,
17 information resources, accounting, purchasing, financial
18 management, and contract management services, of a state agency or
19 entity abolished by Section 3.25 of this article;

20 (2) all powers, duties, functions, programs, and
21 activities of the Texas Lottery Commission related to:

22 (A) the operation of the state lottery or video
23 lottery under Chapter 466, Government Code; and

24 (B) the regulation of bingo under Chapter 2001,
25 Occupations Code;

26 (3) all powers, duties, functions, programs, and
27 activities of the Texas Racing Commission under the Texas Racing

1 Act (Article 179e, Vernon's Texas Civil Statutes); and

2 (4) all powers, duties, functions, programs, and
3 activities of the Texas Commission of Licensing and Regulation and
4 the Texas Department of Licensing and Regulation under Chapter
5 2052, Occupations Code.

6 (b) On the date specified by Subsection (a) of this section:

7 (1) all obligations and contracts of a state agency or
8 entity that are related to a power, duty, function, program, or
9 activity transferred from the agency or entity under Subsection (a)
10 of this section are transferred to the Texas Gaming and Boxing
11 Commission;

12 (2) all property and records in the custody of a state
13 agency or entity that are related to a power, duty, function,
14 program, or activity transferred from the agency or entity under
15 Subsection (a) of this section and all funds appropriated by the
16 legislature for the power, duty, function, program, or activity
17 shall be transferred to the Texas Gaming and Boxing Commission; and

18 (3) all complaints, investigations, or contested
19 cases that are pending before a state agency or entity or the
20 governing body of the agency or entity and that are related to a
21 power, duty, function, program, or activity transferred from the
22 agency or entity under Subsection (a) of this section are
23 transferred without change in status to the Texas Gaming and Boxing
24 Commission.

25 (c) A rule or form adopted by a state agency or entity that
26 relates to a power, duty, function, program, or activity
27 transferred from the agency or entity under Subsection (a) of this

1 section is a rule or form of the Texas Gaming and Boxing Commission
2 and remains in effect until altered by the commission.

3 (d) A reference in law to a state agency or entity abolished
4 by Section 3.25 of this article, or to the governing body of the
5 agency or entity, that relates to a power, duty, function, program,
6 or activity transferred under Subsection (a) of this section means
7 the Texas Gaming and Boxing Commission.

8 (e) A license, permit, or certification in effect that was
9 issued by a state agency or entity abolished by Section 3.25 of this
10 article or described in Subsection (a)(4) of this section and that
11 relates to a power, duty, function, program, or activity
12 transferred under Subsection (a) of this section is continued in
13 effect as a license, permit, or certification of the Texas Gaming
14 and Boxing Commission.

15 SECTION 3.21. (a) The Texas Gaming and Boxing Commission
16 Transition Legislative Oversight Committee is created to
17 facilitate the transfer of powers, duties, functions, programs, and
18 activities between the state's gaming agencies and the Texas Gaming
19 and Boxing Commission as provided by this article with a minimal
20 negative effect on the operation of those regulated activities in
21 this state.

22 (b) The committee is composed of seven members, as follows:

23 (1) two members of the senate, appointed by the
24 lieutenant governor not later than December 1, 2005;

25 (2) two members of the house of representatives,
26 appointed by the speaker of the house of representatives not later
27 than December 1, 2005; and

1 (3) three members of the public, appointed by the
2 governor not later than December 1, 2005.

3 (c) Once the other members of the committee have been
4 appointed, the executive director of the Texas Gaming and Boxing
5 Commission serves as an ex officio member of the committee.

6 (d) An appointed member of the committee serves at the
7 pleasure of the appointing official.

8 (e) The lieutenant governor and the speaker of the house of
9 representatives shall alternate designating a presiding officer
10 from among their respective appointments. The speaker of the house
11 of representatives shall make the first appointment after the
12 effective date of this section.

13 (f) A member of the committee may not receive compensation
14 for serving on the committee but is entitled to reimbursement for
15 travel expenses incurred by the member while conducting the
16 business of the committee as provided by the General Appropriations
17 Act.

18 (g) The committee shall:

19 (1) facilitate the transfer of powers, duties,
20 functions, programs, and activities between the state's gaming
21 agencies and the Texas Gaming and Boxing Commission as provided by
22 this article with a minimal negative effect on the gaming
23 activities regulated in this state;

24 (2) with assistance from the Texas Gaming and Boxing
25 Commission and the gaming agencies listed in Section 3.20(a) of
26 this article, advise the executive commissioner of the Texas Gaming
27 and Boxing Commission concerning:

1 (A) the powers, duties, functions, programs, and
2 activities transferred under this article and the funds and
3 obligations that are related to the powers, duties, functions,
4 programs, or activities; and

5 (B) the transfer of the powers, duties,
6 functions, programs, activities, records, property, funds,
7 obligations, and employees by the entities as required by Section
8 3.20 of this article;

9 (3) meet at the call of the presiding officer;

10 (4) research, take public testimony, and issue reports
11 on other appropriate issues or specific issues requested by the
12 lieutenant governor, speaker, or governor; and

13 (5) review specific recommendations for legislation
14 proposed by the Texas Gaming and Boxing Commission or the other
15 agencies.

16 (h) The committee may request reports and other information
17 from the Texas Gaming and Boxing Commission, other state agencies,
18 and the attorney general relating to gaming in this state and other
19 appropriate issues.

20 (i) The committee shall use existing staff of the senate,
21 the house of representatives, and the Texas Legislative Council to
22 assist the committee in performing its duties under this section.

23 (j) Chapter 551, Government Code, applies to the committee.

24 (k) The committee shall report to the governor, lieutenant
25 governor, and speaker of the house of representatives not later
26 than November 15 of each even-numbered year. The report must
27 include:

1 (1) identification of significant issues within
2 gaming regulation, with recommendations for action;

3 (2) an analysis of the effectiveness and efficiency of
4 gaming regulation, with recommendations for any necessary
5 research; and

6 (3) recommendations for legislative action.

7 SECTION 3.22. (a) The transfer of powers, duties,
8 functions, programs, and activities under Section 3.20 of this
9 article to the Texas Gaming and Boxing Commission must be
10 accomplished in accordance with a schedule included in a transition
11 plan developed by the executive commissioner of the Texas Gaming
12 and Boxing Commission and submitted to the governor and the
13 Legislative Budget Board not later than September 1, 2006. The
14 executive commissioner shall provide to the governor and the
15 Legislative Budget Board transition plan status reports and updates
16 on at least a quarterly basis following submission of the initial
17 transition plan. The transition plan must be made available to the
18 public.

19 (b) Not later than March 1, 2006, the Texas Gaming and
20 Boxing Commission shall hold a public hearing and accept public
21 comment regarding the transition plan required to be developed by
22 the executive commissioner of the Texas Gaming and Boxing
23 Commission under Subsection (a) of this section.

24 (c) In developing the transition plan, the executive
25 commissioner of the Texas Gaming and Boxing Commission shall hold
26 public hearings in various geographic areas in this state before
27 submitting the plan to the governor and the Legislative Budget

1 Board as required by this section.

2 SECTION 3.23. An action brought or proceeding commenced
3 before the date of a transfer prescribed by this article in
4 accordance with the transition plan required under Section 3.22 of
5 this article, including a contested case or a remand of an action or
6 proceeding by a reviewing court, is governed by the laws and rules
7 applicable to the action or proceeding before the transfer.

8 SECTION 3.24. (a) The Texas Gaming and Boxing Commission
9 shall implement the powers, duties, functions, programs, and
10 activities assigned to the commission under this article in
11 accordance with a work plan designed by the commission to ensure
12 that the transfer of gaming regulation in this state is
13 accomplished in a careful and deliberative manner.

14 (b) A work plan designed by the commission under this
15 section must include the following phases:

16 (1) a planning phase, during which the commission will
17 focus on and stabilize the organization of the agency's powers,
18 duties, functions, programs, and activities, and which must
19 include:

20 (A) initiation of recommendations made by the
21 Texas Gaming and Boxing Commission Transition Legislative
22 Oversight Committee;

23 (B) creation of interagency and intra-agency
24 steering committees;

25 (C) development of global visions, goals, and
26 organizational strategies; and

27 (D) development of communications and risk

1 management plans;

2 (2) an integration phase, during which the commission
3 will identify opportunities and problems and design customized
4 solutions for those problems, and which must include:

5 (A) identification of key issues related to costs
6 or legal requirements for other commission activities;

7 (B) planning for daily operations; and

8 (C) validation of fiscal and program synergies;

9 (3) an optimization phase, during which the commission
10 will complete and expand on the initial transitions, and which must
11 include:

12 (A) optimization of initial implementation
13 initiatives;

14 (B) use of enterprise teaming operations;

15 (C) building infrastructures to support and
16 facilitate changes in gaming regulation and oversight; and

17 (D) identification and use of beneficial assets
18 management and facilities approaches; and

19 (4) a transformation phase, during which the
20 commission will continue implementing initial and additional
21 changes in gaming regulation and oversight, and which must include
22 implementation of changes in agency management activities.

23 SECTION 3.25. (a) The Texas Lottery Commission and the
24 Texas Racing Commission are abolished on the date on which their
25 respective powers, duties, functions, programs, and activities are
26 transferred under Section 3.20 of this article, and after that date
27 a reference in any law to the Texas Lottery Commission or to the

1 Texas Racing Commission means the Texas Gaming and Boxing
2 Commission.

3 (b) The abolition of a state agency or entity listed in
4 Subsection (a) of this section and the transfer of its powers,
5 duties, functions, programs, activities, obligations, rights,
6 contracts, records, property, funds, and employees as provided by
7 this article do not affect or impair an act done, any obligation,
8 right, order, permit, certificate, rule, criterion, standard, or
9 requirement existing, or any penalty accrued under former law, and
10 that law remains in effect for any action concerning those matters.

11 SECTION 3.26. (a) Except as provided by Subsection (b),
12 Sections 3.01 through 3.19 of this article take effect on the date
13 the Texas Lottery Commission and the Texas Racing Commission are
14 abolished under Section 3.25 of this article.

15 (b) Sections 3.20 through 3.25 of this article and this
16 section take effect on the date the amendment to Section 47, Article
17 III, Texas Constitution, authorizing a state video lottery system
18 to operate video lottery games at racetracks and on Indian lands and
19 authorizing casino gaming at 12 tourist destination locations in
20 this state and on Indian land proposed by the 79th Legislature,
21 Regular Session, 2005, becomes effective. If that amendment is not
22 approved by the voters, this article has no effect.