

A BILL TO BE ENTITLED

AN ACT

relating to the operation of video lottery games on behalf of this state by persons licensed to conduct wagering on horse or greyhound races, persons licensed to operate the games at other locations, and recognized Indian tribes; providing penalties.

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

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

CHAPTER 466A. VIDEO LOTTERY

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

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

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

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

1 equipment and services.

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

3 SUBCHAPTER B. ADMINISTRATION

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

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

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

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

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

25 (1) this chapter by any person; or

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

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

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

4 SUBCHAPTER C. LICENSE AND CONTRACT REQUIREMENTS

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

7 (1) is a video lottery retailer that conducts the
8 video lottery:

9 (A) on property owned or leased by the retailer;
10 and

11 (B) if the retailer is licensed under Section
12 466A.103(1), on the same premises on which the retailer operates
13 the retailer's licensed racetrack; or

14 (2) is an Indian tribe described by Section 47(f),
15 Article III, Texas Constitution, that has contracted with the
16 commission under this chapter to operate video lottery games on
17 behalf of this state on tribal land.

18 (b) A person may not provide video lottery technology for
19 use in this state unless the person holds a license as a video
20 lottery technology provider.

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

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

25 (2) the type of game is approved for use by the
26 commission; and

27 (3) the machine on which the game is played is actively

1 linked to and controlled by the commission's video lottery central
2 computer system.

3 Sec. 466A.102. VIDEO LOTTERY CENTRAL COMPUTER SYSTEM. The
4 commission shall establish and maintain a video lottery central
5 computer system to link all video lottery machines operated under
6 this chapter to provide the information, control, and security
7 measures required by the commission.

8 Sec. 466A.103. VIDEO LOTTERY RETAILER LICENSE. (a) On
9 application, the commission may issue a video lottery retailer
10 license to:

11 (1) a pari-mutuel license holder in good standing
12 under the Texas Racing Act (Article 179e, Vernon's Texas Civil
13 Statutes) who:

14 (A) holds a license to conduct horse races or
15 greyhound races under that Act; and

16 (B) is not ineligible to hold the license under
17 another provision of this chapter or a commission rule; or

18 (2) a person selected by the commission in accordance
19 with Subsection (b) who is not ineligible to hold the license under
20 another provision of this chapter or commission rule.

21 (b) The commission shall issue nine video lottery retailer
22 licenses as provided by this subsection. A person that holds a
23 license issued under this subsection may operate video lottery
24 games in accordance with this chapter and board rules at one
25 location approved by the commission in the geographic area for
26 which the license is issued. The commission shall issue one license
27 under this subsection for the operation of video lottery games at

1 one location in each of the following geographic areas in this
2 state:

3 (1) the Galveston area;

4 (2) the Houston area;

5 (3) the Dallas and Fort Worth area;

6 (4) the San Antonio area;

7 (5) the El Paso area;

8 (6) the lower Rio Grande Valley area consisting of
9 Cameron, Hidalgo, Starr, and Willacy Counties;

10 (7) the East Texas area;

11 (8) the Panhandle-South Plains area; and

12 (9) the Central Texas area.

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

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

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

27 (b) A person licensed as a video lottery technology provider

1 may not provide video lottery technology or equipment to any person
2 without the consent of the commission.

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

12 Sec. 466A.105. CONTRACT WITH INDIAN TRIBE. As authorized
13 by Section 47(f), Article III, Texas Constitution, the commission
14 may contract with an Indian tribe for the operation of video lottery
15 games on behalf of this state by the Indian tribe on tribal land.

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

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

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

24 (d) The commission may summarily suspend a license issued
25 under this chapter in the manner prescribed by Section 466.160 if
26 the commission determines that the action is necessary to maintain
27 the integrity, security, or fairness of video lottery operations.

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

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

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

6 SUBCHAPTER D. REVENUE

7 Sec. 466A.151. DIVISION OF REVENUE OF VIDEO LOTTERY
8 RETAILER. (a) At the times and in the manner prescribed by
9 commission rule, a video lottery retailer shall pay to the
10 commission 65 percent of the net terminal income derived from video
11 lottery games operated by the retailer.

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

14 Sec. 466A.152. REVENUE FROM INDIAN TRIBE VIDEO LOTTERY. A
15 contract under Section 466A.105 must provide for the commission to
16 receive not less than 25 percent of the net terminal income derived
17 from video lottery games operated under the contract.

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

24 (b) Money in the state video lottery account may be used
25 only:

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

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

3 (3) the balance of which, after creation of a reserve
4 sufficient to pay the amounts necessary or estimated to be
5 necessary under Subdivisions (1) and (2), to be transferred to the
6 foundation school fund, on or before the 15th day of each month.

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

8 SUBCHAPTER E. OFFENSES; PENALTIES

9 Sec. 466A.201. MANIPULATION OR TAMPERING. (a) A person
10 commits an offense if the person intentionally or knowingly
11 manipulates the outcome of a video lottery game, the amount of a
12 video lottery game prize, or the operation of a video lottery
13 machine by physical, electronic, or other means, other than in
14 accordance with commission rules.

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

17 Sec. 466A.202. SALE OF VIDEO LOTTERY GAME TO PERSON YOUNGER
18 THAN 18 YEARS OF AGE. (a) A video lottery retailer or an employee
19 or agent of a video lottery retailer or an employee, agent, or
20 member of an Indian tribe commits an offense if the person
21 intentionally or knowingly:

22 (1) sells or offers to sell a play of a video lottery
23 game to an individual the person knows is younger than 18 years of
24 age or permits the individual to purchase a play of a video lottery
25 game; or

26 (2) pays money or issues a video credit slip or other
27 winnings for a play of a video lottery game to an individual the

1 person knows is younger than 18 years of age.

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

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

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

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

11 (c) An offense under Subsection (a) is a Class B
12 misdemeanor.

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

15 Sec. 466A.203. ADMINISTRATIVE PENALTY. The commission may
16 impose an administrative penalty against a person licensed under
17 this chapter who violates this chapter or a rule or order adopted
18 under this chapter.

19 Sec. 466A.204. CIVIL PENALTY. (a) A person who violates
20 this chapter or a rule adopted by the commission under this chapter
21 is liable to the state for a civil penalty not to exceed \$5,000 for
22 each day of violation.

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

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

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

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

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

8 (1) was permitted under Chapter 2001, Occupations
9 Code;

10 (2) was permitted under Chapter 2002, Occupations
11 Code;

12 (3) consisted entirely of participation in:

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

15 (B) state video lottery authorized by Chapter
16 466A, Government Code;

17 (4) was permitted under the Texas Racing Act (Article
18 179e, Vernon's Texas Civil Statutes); or

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

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

25 (a) It is a defense to prosecution under this chapter that
26 the conduct:

27 (1) was authorized under:

- 1 (A) Chapter 2001, Occupations Code;
2 (B) Chapter 2002, Occupations Code; or
3 (C) the Texas Racing Act (Article 179e, Vernon's
4 Texas Civil Statutes);

5 (2) consisted entirely of participation in the state
6 lottery authorized by Chapter 466, Government Code, or in state
7 video lottery authorized by Chapter 466A, Government Code; or

8 (3) was a necessary incident to the operation of the
9 state lottery or state video lottery and was directly or indirectly
10 authorized by:

- 11 (A) Chapter 466 or 466A, Government Code;
12 (B) the lottery division of the Texas Lottery
13 Commission;
14 (C) the Texas Lottery Commission; or
15 (D) the director of the lottery division of the
16 Texas Lottery Commission.

17 (c) Subsection (a)(3) applies to a person manufacturing,
18 possessing, or operating a gambling device under a license or other
19 authorization of the Texas Lottery Commission under Chapter 466A,
20 Government Code, or under a contract entered into with the
21 commission under that chapter.

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

24 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
25 a defense to prosecution under this chapter that a person sells,
26 leases, transports, possesses, stores, or manufactures a gambling
27 device with the authorization of the Texas Lottery Commission under

1 Chapter 466A, Government Code, for transportation in interstate or
2 foreign commerce.

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

6 Sec. 6.011. OPERATION OF VIDEO LOTTERY. (a) A racetrack
7 license holder may operate a video lottery game on behalf of the
8 Texas Lottery Commission as a video lottery retailer under Chapter
9 466A, Government Code.

10 (b) The commission may adopt rules necessary to implement
11 this section.

12 SECTION 7. (a) As soon as practicable after the effective
13 date of this Act, the Texas Lottery Commission shall adopt the rules
14 necessary to implement video lottery in accordance with Chapter
15 466A, Government Code, as added by this Act.

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

21 (c) Not later than December 1, 2007, the Texas Lottery
22 Commission shall issue the nine video lottery licenses required
23 under Section 466A.103, Government Code, as added by this Act.

24 SECTION 8. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 covered by the law in effect when the offense was committed, and the

1 former law is continued in effect for that purpose. For purposes of
2 this section, an offense was committed before the effective date of
3 this Act if any element of the offense was committed before that
4 date.

5 SECTION 9. This Act takes effect December 1, 2005, but only
6 if the constitutional amendment proposed by the 79th Legislature,
7 Regular Session, 2005, authorizing the operation of video lottery
8 games on behalf of the state by persons licensed to conduct wagering
9 on horse or greyhound races, persons licensed to conduct video
10 lottery games at additional locations, and recognized Indian tribes
11 is approved by the voters. If that amendment is not approved by the
12 voters, this Act has no effect.