

By: Allen of Dallas

H.B. No. 2038

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the establishment and operation of state regulated  
3 video lottery terminals at licensed Texas racetracks to enhance the  
4 Texas Racehorse and Greyhound racing and breeding industries;  
5 providing penalties.

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

7 ARTICLE \_\_. VIDEO LOTTERY

8 SECTION 1. PURPOSE.

9 This state is facing a crisis in providing funding for the  
10 public education system. In order to generate additional revenue  
11 to fund public education and other state governmental programs, a  
12 state-controlled and state-operated video lottery system is  
13 proposed in accordance with this Act.

14 SECTION 1.01. Section 466.002, Government Code, is amended  
15 by amending Subdivisions (2)-(10) and adding Subdivisions  
16 (11)-(36) to read as follows:

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

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

24 (4) "Disable" with respect to video lottery terminals

1 means the process that causes a video lottery terminal to cease  
2 functioning on issuance of a shutdown command from the video  
3 lottery central system.

4 (5) "Distribute" means the sale, lease, marketing,  
5 offer, or other disposition of a video lottery terminal, the  
6 electronic computer components of a video lottery terminal, the  
7 cabinet in which a video lottery terminal is housed, video lottery  
8 equipment, or video lottery game software intended for use or play  
9 in this state or on Indian lands in this state.

10 (6) [~~(3)~~] "Division" means the lottery division  
11 established by the commission under Chapter 467.

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

19 (8) [~~(4)~~] "Executive director" means the executive  
20 director of the commission.

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

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

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

1           (B) in which the house takes on all players,  
2 collects from all losers, and pays all winners; and

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

4           (11) "Indian lands" means:

5           (A) land located within an Indian reservation;  
6 and

7           (B) land over which an Indian tribe exercises  
8 governmental power and the title to which is:

9           (i) held in trust by the United States for  
10 the benefit of an Indian tribe or individual member of an Indian  
11 tribe; or

12           (ii) held by an Indian tribe or an  
13 individual member of an Indian tribe and subject to restriction by  
14 the United States against alienation.

15           (C) In no event shall "Indian lands" mean land  
16 described in (A) and (B) that was not occupied by on Indian tribe on  
17 January 1, 1998.

18           (12) "Institutional investor" means:

19           (A) a state or federal government pension plan;  
20 or

21           (B) any of the following that meets the  
22 requirements of a "qualified institutional buyer" as defined in  
23 Rule 144A, Securities Act of 1933 (15 U.S.C. Sections 77a-77aa),  
24 and the rules and regulations adopted under that rule by the United  
25 States Securities and Exchange Commission:

26           (i) a bank as defined by Section 3(a)(6),  
27 Securities Exchange Act of 1934 (15 U.S.C. Sections 78a-78kk), and

1 the rules and regulations adopted under that act by the United  
2 States Securities and Exchange Commission;

3 (ii) an insurance company as defined by  
4 Section 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section  
5 80a-1 et seq.);

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

9 (iv) an employee benefit plan or pension  
10 fund subject to the Employee Retirement Income Security Act of 1974  
11 (29 U.S.C. Section 1001 et seq.), excluding an employee benefit  
12 plan or pension fund sponsored by a publicly traded corporation  
13 registered with the Securities and Exchange Commission;

14 (v) a group composed entirely of persons  
15 specified by this subdivision; or

16 (vi) any other person the commission  
17 recognizes as an institutional investor for reasons consistent with  
18 the policies expressed in this chapter.

19 (13) "Lottery" means the procedures operated by the  
20 state under this chapter through which prizes are awarded or  
21 distributed by chance among persons who have paid, or  
22 unconditionally agreed to pay, for a chance or other opportunity to  
23 receive a prize. Such procedures shall include instant-ticket  
24 lottery games in which a central system randomly shuffles and  
25 stores paper and electronic ticket series, distributes the tickets  
26 to lottery operators and site controllers, monitors all system  
27 activity, and performs accounting and security functions. Such

1 tickets shall be predetermined to be either winners or losers  
2 before the time of purchase, and once a player has purchased a  
3 ticket, it shall be removed from the pool of available tickets and  
4 may not be dispensed again.

5 (14) [~~6~~] "Lottery game" means an activity conducted  
6 lawfully and in accordance with the Texas Constitution and this  
7 chapter that is controlled by this state as part of the lottery and  
8 through which prizes are awarded or distributed by chance to  
9 persons who have paid or unconditionally agreed to pay, or who  
10 otherwise participate in a game, for a chance or other opportunity  
11 to receive a prize [~~includes a lottery activity~~].

12 (15) [~~7~~] "Lottery operator" means a person selected  
13 under Section 466.014(b) to operate a lottery game.

14 (16) "Manufacture," with respect to video lottery,  
15 means to design, assemble, fabricate, produce, program, or make  
16 modifications to a video lottery terminal, the electronic computer  
17 components of a video lottery terminal, the cabinet in which a video  
18 lottery terminal is housed, video lottery equipment, or video  
19 lottery game software intended for use or play in this state or on  
20 Indian lands in this state.

21 (17) "Net terminal income" means the total amount of  
22 money paid to play video lottery games less the value of all credits  
23 redeemed for money, including any progressive prizes, by the  
24 players of the video lottery games. Promotional prizes offered by a  
25 video lottery retailer or video lottery manager may not be deducted  
26 or otherwise considered credits redeemed for money by players for  
27 the purpose of determining net terminal income. A promotional

1 prize is a prize unrelated to the play of the game.

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

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

10 (20) [~~8~~] "Player" means a person who contributes any  
11 part of the consideration for a ticket or to play a video lottery  
12 game under this chapter.

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

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

18 (23) "Slot machine" means a mechanical, electrical, or  
19 other type of device, contrivance, or machine that, on insertion of  
20 a coin, currency, token, or similar object or on payment of any  
21 other consideration, is available to play or operate, and that is  
22 not connected to the video lottery central system, and the play or  
23 operation of which, through the skill of the operator, by chance, or  
24 both, may deliver or entitle the person playing or operating the  
25 machine to receive cash, premiums, merchandise, tokens, or any  
26 other thing of value, whether the payoff is made automatically from  
27 the machine or in any other manner. The term does not include any

1 equipment, machine, technological aid, or other device in  
2 connection with the play of bingo under Chapter 2001, Occupations  
3 Code.

4 (24) "Substantial interest holder" means:

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

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

15 (C) a person associated with an applicant or  
16 license holder who the commission determines has the power or  
17 authority to:

18 (i) control the activities of the applicant  
19 or license holder; or

20 (ii) elect or select the executive  
21 director, the managers, the partners, or a majority of the board of  
22 directors of the applicant or license holder; and

23 (D) any key personnel of a video lottery retailer  
24 or video lottery manager, including an executive director, officer,  
25 director, manager, member, partner, limited partner, executive,  
26 employee, or agent, who the commission determines has the power to  
27 exercise significant influence over decisions concerning any part

1 of the applicant's or license holder's business operation.

2 A substantial interest holder does not include a bona  
3 fide lender, bank, or other authorized or licensed lending  
4 institution that holds a mortgage or other lien acquired in the  
5 ordinary course of business or a vendor of the applicant or license  
6 holder that is not otherwise a substantial interest holder.

7 (25) [~~(10)~~] "Ticket" means any tangible evidence  
8 issued to provide participation in a lottery game authorized by  
9 this chapter. The term does not include a ticket for play of a video  
10 lottery game.

11 (26) "Video lottery" means an electronic version of  
12 the paper instant-ticket lottery games conducted by the Commission,  
13 and is composed of

14 (a) video display terminals that accept players'  
15 paper currency, credit cards, or account cards, and permit players  
16 to view the results of the purchased electronic instant lottery  
17 tickets; and

18 (b) site controllers that link a number of video  
19 display terminals to a central system, store and manage unpurchased  
20 electronic tickets series and are programmed to dispense electronic  
21 lottery tickets in the sequence received from and determined by the  
22 central system.

23 (27) "Video lottery central system" means the system  
24 of procedures and facilities operated and controlled by the  
25 commission that links together all video lottery terminals operated  
26 in this state and allows the commission to continuously monitor the  
27 activity of each video lottery terminal and to disable any video

1 lottery terminal in this state.

2 (28) "Video lottery central system provider" means a  
3 person that, by contract with the commission, provides the video  
4 lottery central system.

5 (29) "Video lottery equipment" means:

6 (A) a video lottery terminal; or

7 (B) equipment, components, or contrivances used  
8 remotely or directly in connection with a video lottery terminal  
9 to:

10 (i) affect the reporting of gross revenue  
11 and other accounting information, including a device for weighing  
12 and counting money;

13 (ii) connect video lottery terminals  
14 together for accounting or wide-area prize or progressive prize  
15 purposes;

16 (iii) monitor video lottery terminal  
17 operations;

18 (iv) provide for the connection of video  
19 lottery terminals to the video lottery central system; and

20 (v) any other communications technology or  
21 equipment necessary for the operation of a video lottery terminal.

22 (30) "Video lottery game" means an electronically  
23 simulated game approved and controlled by the commission the  
24 outcome of which is determined solely by chance based on a  
25 computer-generated random selection of winning combinations of  
26 symbols or numbers other than roulette, dice, or baccarat game  
27 themes associated with casino gambling, except that game themes

1 that display symbols that appear to roll on drums to simulate a  
2 classic casino slot machine or themes of other card games and keno  
3 may be used, and that is displayed on a video lottery terminal that:

4 (A) is connected to the video lottery central  
5 system;

6 (B) operates by a player's insertion of a coin,  
7 currency, voucher, or token into the video lottery terminal that  
8 causes the video lottery terminal to display credits that entitle  
9 the player to select one or more symbols or numbers or cause the  
10 video lottery terminal to randomly select symbols or numbers;

11 (C) allows the player to win additional game play  
12 credits, coins, or tokens based on game rules that establish the  
13 random selection of winning combinations of symbols or numbers and  
14 the number of free play credits, coins, or tokens to be awarded for  
15 each winning combination; and

16 (D) allows the player at any time to clear all  
17 game play credits and receive a video lottery ticket entitling the  
18 player to receive the cash value of those credits.

19 (31) "Video lottery terminal" means an interactive  
20 electronic terminal device that is connected to the video lottery  
21 central system and displays video lottery games authorized under  
22 this chapter and the Texas Constitution. The term does not include  
23 a house-banked game, a slot machine, or any other stand-alone video  
24 gambling device, that is not connected to the video lottery system  
25 or that is otherwise prohibited under state law.

26 (32) "Video lottery system" has the meaning assigned  
27 to that term by Section 47(f), Article III, Texas Constitution.

1           (33) "Video lottery ticket" means the tangible  
2 evidence issued by a video lottery terminal to reflect winnings  
3 from the play of a video lottery game.

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

8           (35) "Video lottery manager" means a person licensed  
9 by the commission under this chapter as required by the Texas  
10 Constitution to manage a video lottery terminal establishment at a  
11 racetrack or who provides management services for a video lottery  
12 terminal establishment on Indian lands.

13           (36) "Video lottery terminal provider" means a person  
14 in the business of manufacturing or distributing video lottery  
15 terminals in this state.

16           (37) "Video lottery retailer" means a pari-mutuel  
17 license holder that owns or manages a racetrack at which a video  
18 lottery terminal establishment is located and that holds a video  
19 lottery retailer license under Subchapter K.

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

23           (b) Any [A] contract or authorized agreement between the  
24 division and a lottery operator, the video lottery central system  
25 provider, a video lottery provider, video lottery terminal provider  
26 under Section 466.014(b) must contain a provision allowing the  
27 contract or authorized agreement to be terminated without penalty

1 should the division be abolished unless another state agency is  
2 assigned to control and supervise all video lottery game activity  
3 as required by this chapter.

4 (c) Notwithstanding Subsection (a), if any gaming agreement  
5 that allows video lottery is in effect, the commission or another  
6 state agency designated by the legislature must operate, control,  
7 and supervise video lottery games as necessary to comply with a  
8 gaming agreement under this chapter.

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

- 11 (a) A political subdivision of this state may not impose:
- 12 (1) a tax on the sale of a ticket;
  - 13 (2) a tax on the payment of a prize under this chapter;
  - 14 [~~or~~]
  - 15 (3) an ad valorem tax on tickets; or
  - 16 (4) a tax, fee, other assessment on consideration paid  
17 to play a video lottery game; or
  - 18 (5) impose a tax or fee for the attendance or admission  
19 to a racetrack or video lottery establishment unless specifically  
20 authorized by statute.

21 SECTION 1.04. Section 466.014, Government Code, is amended  
22 to read as follows:

23 Sec. 466.014. POWERS AND DUTIES OF COMMISSION AND EXECUTIVE  
24 DIRECTOR; CONTRACT AUTHORITY. (a) The commission and executive  
25 director have broad authority and shall exercise strict control and  
26 close supervision over [~~all~~] lottery games [~~conducted in this~~  
27 ~~state~~] to promote and ensure integrity, security, honesty, and

1 fairness in the operation and administration of the lottery.

2 (b) The executive director may contract with or employ a  
3 person to perform a function, activity, or service in connection  
4 with the operation of the lottery as prescribed by the executive  
5 director. A contract relating to the operation of video lottery  
6 must be consistent with Subchapter K. Except as provided by this  
7 subsection, a [A] person with whom the executive director contracts  
8 to operate a lottery game must be eligible for a sales agent license  
9 under Section 466.155. A person with whom the executive director  
10 contracts to provide the video lottery central system or who  
11 registers as a video lottery terminal provider must be licensed,  
12 registered, or approved by the commission in accordance with  
13 Subchapter K.

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

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

1           (1) procurement procedures prescribed under:

2                   (A) Subtitle D, Title 10; and

3                   (B) Section 466.101; and

4           (2) any bidding or contract requirements provided by  
5 any other law or by commission rules.

6           (e) Paragraph (d) expires on January 1, 2008.

7           SECTION 1.05. Section 466.015(b), Government Code, is  
8 amended to read as follows:

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

11                   (1) security for the lottery and the commission,  
12 including the development of an internal security plan;

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

16                   (3) enforcement of prohibitions on the sale of tickets  
17 to or by an individual younger than 18 years of age; ~~and~~

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

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

22           SECTION 1.06. Section 466.017, Government Code, is amended  
23 to read as follows:

24           Sec. 466.017. AUDITS. (a) The commission [~~executive~~  
25 ~~director~~] shall provide for a certified public accountant to  
26 conduct an independent audit of the commission's annual financial  
27 statements in accordance with generally accepted auditing

1 standards that requires the accountant to express an opinion on the  
2 conformity of the financial statements with generally accepted  
3 accounting principles [~~for each fiscal year of all accounts and~~  
4 ~~transactions of the lottery~~]. The certified public accountant may  
5 not have[, ~~as determined by the executive director,~~] a significant  
6 financial interest in a sales agent, lottery vendor, video lottery  
7 manager, video lottery retailer, video lottery terminal provider,  
8 video lottery central system provider, or lottery operator. The  
9 certified public accountant shall present an audit report to the  
10 executive director, the commission, the governor, the comptroller,  
11 and the legislature not later than the 30th day after the submission  
12 date for the annual financial report required by the General  
13 Appropriations Act. [~~The report must contain recommendations to~~  
14 ~~enhance the earnings capability of the lottery and improve the~~  
15 ~~efficiency of lottery operations.~~] The state auditor may review  
16 the results of and working papers related to the audit.

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

1 terminal provider, video lottery central system provider, or sales  
2 agent. The executive director or state auditor may conduct an  
3 examination at the principal office or any other office of the  
4 lottery operator, video lottery manager, video lottery retailer,  
5 video lottery terminal provider, video lottery central system  
6 provider, or sales agent or may require the lottery operator, video  
7 lottery manager, video lottery retailer, video lottery terminal  
8 provider, video lottery central system provider, or sales agent to  
9 produce the records at the office of the commission or state  
10 auditor. If a sales agent, video lottery manager, video lottery  
11 retailer, video lottery terminal provider, or video lottery central  
12 system provider refuses to permit an examination or to answer any  
13 question authorized by this subsection, the executive director may  
14 summarily suspend the license or registration of the sales agent,  
15 video lottery manager, video lottery retailer, or video lottery  
16 terminal provider under Section 466.160 or Subchapter K until the  
17 examination is completed as required. Section 321.013(h) does not  
18 apply to an audit of a lottery operator, video lottery manager,  
19 video lottery retailer, video lottery terminal provider, video  
20 lottery central system provider, or sales agent.

21 SECTION 1.07. Section 466.018, Government Code, is amended  
22 to read as follows:

23 Sec. 466.018. INVESTIGATIONS. The attorney general, the  
24 district attorney for Travis County, or the district attorney,  
25 criminal district attorney, or county attorney performing the  
26 duties of district attorney for the county in which the violation or  
27 alleged violation occurred may investigate a violation or alleged

1 violation of this chapter and of the penal laws of this state by the  
2 commission or its employees, a sales agent, a lottery vendor, ~~[or]~~ a  
3 lottery operator, video lottery manager, video lottery retailer,  
4 video lottery terminal provider, or video lottery central system  
5 provider.

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

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

12 (1) ~~[r]~~ without a search warrant, ~~[may]~~ search and  
13 seize a lottery vending machine, lottery computer terminal, video  
14 lottery terminal, or other lottery or gaming equipment that is  
15 located on premises for which a person holds a sales agent, video  
16 lottery retailer, or video lottery manager license issued under  
17 this chapter; and

18 (2) seize a lottery vending machine, lottery computer  
19 terminal, video lottery terminal, or other lottery or gaming  
20 equipment that is being used or is in the possession of any person  
21 in violation of this chapter.

22 (d) The Department of Public Safety or any other state or  
23 local law enforcement agency in this state, at the commission's  
24 request and in accordance with an interagency agreement, shall  
25 perform a full criminal background investigation of a prospective  
26 deputy or investigator of the department of security. The  
27 commission shall reimburse the agency ~~[Department of Public Safety]~~

1 for the actual costs of an investigation.

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

6 (1) lottery personnel security;

7 (2) sales agent security;

8 (3) lottery operator and vendor security;

9 (4) security against ticket counterfeiting and  
10 alteration and other means of fraudulent winning;

11 (5) security of lottery drawings;

12 (6) lottery computer, data communications, database,  
13 and systems security;

14 (7) lottery premises and warehouse security;

15 (8) security of distribution of tickets;

16 (9) security of validation and payment procedures;

17 (10) security involving unclaimed prizes;

18 (11) security aspects of each lottery game;

19 (12) security against the deliberate placement of  
20 winning tickets in lottery games that involve preprinted winning  
21 tickets by persons involved in the production, storage,  
22 transportation, or distribution of tickets; ~~and~~

23 (13) security of video lottery retailers, video  
24 lottery managers, video lottery terminal providers, and the video  
25 lottery central system provider; and

26 (14) other security aspects of lottery operations,  
27 including video lottery game operations.

1 SECTION 1.09. Section 466.021(a), Government Code, is  
2 amended to read as follows:

3 (a) The executive director shall, every two years, employ an  
4 independent firm experienced in demographic analysis to conduct a  
5 demographic study of lottery players. The study must include the  
6 income, age, sex, race, education, and frequency of participation  
7 of players. The study must distinguish between players of  
8 traditional lottery games and video lottery games.

9 SECTION 1.10. Section 466.022, Government Code, is amended  
10 by amending Subsection (b) and adding Subsections (c) and (d) to  
11 read as follows:

12 (b) In addition to commission records excepted from  
13 disclosure under Chapter 552, the following information is  
14 confidential and is exempt from disclosure:

15 (1) security plans and procedures of the commission  
16 designed to ensure the integrity and security of the operation of  
17 the lottery;

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

22 (3) the street address and telephone number of a prize  
23 winner, if the prize winner has not consented to the release of the  
24 information; and

25 (4) information relating to all system operations of  
26 video lottery games, including the operation of the video lottery  
27 system, security related to video lottery games, and commission

1 plans and procedures intended to ensure the integrity and security  
2 of the operation of video lottery games.

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

5 (1) is required by the commission to be furnished to  
6 the commission under Subchapter K or that may be otherwise obtained  
7 by the commission from any source;

8 (2) pertains to an applicant's criminal record,  
9 antecedents, and background that is furnished to or obtained by the  
10 commission from any source, including information obtained by the  
11 commission under Section 411.108(d);

12 (3) is provided to the commission, a commission  
13 employee, or an investigator acting on behalf of the commission by a  
14 governmental agency or an informer or on the assurance that the  
15 information will be held in confidence and treated as confidential;

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

19 (5) is prepared or obtained by an agent or employee of  
20 the commission relating to a license application, a finding of  
21 suitability, or any approval required under Subchapter K.

22 (d) Information that qualifies as confidential under  
23 Subsection (b)(4) may be disclosed in whole or in part only as  
24 necessary to administer this chapter or on the order of a court of  
25 competent jurisdiction. The commission, subject to appropriate  
26 procedures, may disclose the information and data to an authorized  
27 agent of a political subdivision of this state, the United States,

1 another state or a political subdivision of another state, a tribal  
2 law enforcement agency, or the government of a foreign country. For  
3 the annual report required under Section 466.016, the commission in  
4 its discretion may disclose a compilation of statistical  
5 information that is otherwise confidential under Subsection (b)(4)  
6 if the compilation does not disclose the identity of an applicant,  
7 license holder, or video lottery establishment. Notwithstanding  
8 any other provision of state law, the information provided under  
9 this subsection may not otherwise be disclosed without specific  
10 commission authorization.

11 SECTION 1.11. Section 466.024, Government Code, is amended  
12 to read as follows:

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

19 (b) The commission shall adopt rules prohibiting the  
20 operation of any game, other than a video lottery game as defined in  
21 this chapter, using a video lottery machine ~~[or machine]~~.

22 (c) In this section:

23 (1) "Sports event" means a football, basketball,  
24 baseball, or similar game, or a horse or dog race on which  
25 pari-mutuel wagering is allowed.

26 (2) "Video lottery machine" ~~[or "machine"]~~ means any  
27 electronic video ~~[game]~~ machine that, upon insertion of cash or

1 token, is available to play [~~or simulate the play of a video game,~~  
2 ~~including video poker, keno, and blackjack,~~] a lottery game using a  
3 video display and microprocessors in which the player may receive  
4 free games or credits that can be redeemed for cash[~~, coins,~~] or  
5 tokens[~~, or that directly dispenses cash, coins, or tokens~~].

6 SECTION 1.12. Section 466.025, Government Code, is amended  
7 to read as follows:

8 Sec. 466.025. REPORTS OF TICKETS SOLD, NET TERMINAL INCOME,  
9 AND PRIZES AWARDED. For each lottery game, other than a video  
10 lottery game, after the last date on which a prize may be claimed  
11 under Section 466.408(d), the director shall prepare a report that  
12 shows the total number of tickets sold and the number and amounts of  
13 prizes awarded in the game. The report must be available for public  
14 inspection. For video lottery games, the director shall prepare a  
15 weekly report that shows the net terminal income for the week of the  
16 report.

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

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

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

25 (2) with regard to video lottery games:

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

1                   (B) is deemed unsuitable under Subchapter K.

2           SECTION 1.14. Section 466.110, Government Code, is amended  
3 to read as follows:

4           Sec. 466.110. PROHIBITED ADVERTISEMENTS. The legislature  
5 intends that advertisements or promotions sponsored by the  
6 commission or the division for the lottery not be of a nature that  
7 unduly influences any person to purchase a lottery ticket or number  
8 or play a video lottery game.

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

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

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

17           (a) Unless suspended or revoked, a license issued under this  
18 subchapter expires on the date specified in the license, which may  
19 not be later than the fifth anniversary of its date of issuance.

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

22           (a) The commission is entitled to conduct an investigation  
23 of and is entitled to obtain criminal history record information  
24 maintained by the Department of Public Safety, the Federal Bureau  
25 of Investigation Identification Division, or another law  
26 enforcement agency to assist in the investigation of:

27                   (1) a sales agent or an applicant for a sales agent

1 license;

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

4 (3) a lottery operator, video lottery manager, video  
5 lottery retailer, video lottery terminal provider, or video lottery  
6 central system provider, or prospective lottery operator, video  
7 lottery manager, video lottery retailer, video lottery terminal  
8 provider, or video lottery central system provider;

9 (4) an employee of a lottery operator, video lottery  
10 manager, video lottery retailer, video lottery terminal provider,  
11 or video lottery central system provider or prospective lottery  
12 operator, video lottery manager, video lottery retailer, video  
13 lottery terminal provider, or video lottery central system  
14 provider, if the employee is or will be directly involved in lottery  
15 operations;

16 (5) a person who manufactures or distributes lottery  
17 equipment or supplies, or a representative of a person who  
18 manufactures or distributes lottery equipment or supplies offered  
19 to the lottery;

20 (6) a person who has submitted a written bid or  
21 proposal to the commission in connection with the procurement of  
22 goods or services by the commission, if the amount of the bid or  
23 proposal exceeds \$500;

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

26 (8) a person who proposes to enter into or who has a  
27 contract with the commission to supply goods or services to the

1 commission; or

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

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

5 (B) holds more than 10 percent of the stock in the  
6 person;

7 (C) holds an equitable interest greater than 10  
8 percent in the person;

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

11 (E) is the owner or lessee of a business that the  
12 person conducts or through which the person will conduct  
13 lottery-related activities;

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

16 (G) participates in managing the affairs of the  
17 person; or

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

20 (i) selling tickets; or

21 (ii) handling money from the sale of  
22 tickets.

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

25 Sec. 466.206. CRIMINAL HISTORY INVESTIGATION FOR VIDEO  
26 LOTTERY. (a) Except as otherwise provided by this section and  
27 Sections 466.020, 466.201, and 466.5034, a criminal history

1 investigation of a video lottery retailer, video lottery manager,  
2 video lottery terminal provider, or video lottery central system  
3 provider is governed by commission rules adopted under Subchapter  
4 K, which may consider a criminal history investigation conducted  
5 under the Texas Racing Act (Article 179e, Vernon's Texas Civil  
6 Statutes).

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

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

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

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

27 (2) under a court order.

1 SECTION 1.19. Section 466.252, Government Code, is amended  
2 to read as follows:

3 Sec. 466.252. PLAYER [~~PURCHASE OF TICKET~~] AGREEMENT TO  
4 ABIDE BY RULES AND INSTRUCTIONS. (a) By purchasing a ticket in a  
5 particular lottery game or participating as a player in a lottery  
6 game, a player agrees to abide by and be bound by the commission's  
7 rules and instructions, including the rules or instructions  
8 applicable to the particular lottery game involved. The player  
9 also acknowledges that the determination of whether the player is a  
10 valid winner is subject to:

11 (1) the commission's rules, instructions, and claims  
12 procedures, including those developed for the particular lottery  
13 game involved; [~~and~~]

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

16 (3) the limitations and other provisions prescribed by  
17 this chapter.

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

20 SECTION 1.20. Section 466.3011, Government Code, is amended  
21 to read as follows:

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

25 (1) an offense under this chapter;

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

27 (A) is a lottery operator, lottery vendor, sales

1 agent, video lottery manager, video lottery retailer, video lottery  
2 terminal provider, video lottery central system provider, or  
3 employee of the division; and

4 (B) is alleged to have committed the offense  
5 while engaged in lottery activities, including video lottery  
6 activities; or

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

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

11 Sec. 466.3031. UNAUTHORIZED OPERATION, USE, OR POSSESSION  
12 OF VIDEO LOTTERY TERMINAL. (a) A person may not operate, use, or  
13 possess a video lottery terminal or other electronic gambling  
14 device unless the operation, use, or possession is expressly  
15 authorized by this chapter.

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

24 (c) A person commits an offense if the person operates,  
25 uses, or possesses a gambling device, other than a video lottery  
26 terminal authorized under this chapter, including a slot machine,  
27 dice game, roulette wheel, house-banked game, or game in which a

1 winner is determined by the outcome of a sports contest. An offense  
2 under this subsection is a felony of the third degree.

3 (d) Notwithstanding Subsection (b) or (c), a video lottery  
4 retailer, video lottery manager, or registered video lottery  
5 terminal provider may store or possess a video lottery terminal as  
6 authorized by the commission, and the commission may possess video  
7 lottery terminals for study and evaluation.

8 (e) Nothing in this section shall be construed to prohibit  
9 the operation, use, or possession of equipment, machines,  
10 technological aids, or other devices allowed in connection with the  
11 play of bingo under Chapter 2001, Occupations Code.

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

14 (a) A sales agent, video lottery manager, or video lottery  
15 retailer, or an employee of a sales agent, video lottery manager, or  
16 video lottery retailer, commits an offense if the person  
17 intentionally or knowingly sells a ticket to another person or  
18 allows the person to play or conduct a game on a video lottery  
19 terminal by extending credit or lending money to the person to  
20 enable the person to purchase the ticket or play the game.

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

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

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

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

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

7            (1) purchases a ticket;

8            (2) plays a video lottery game; or

9            (3) [~~(2)~~] falsely represents the individual to be 18  
10 years of age or older by displaying evidence of age that is false or  
11 fraudulent or misrepresents in any way the individual's age in  
12 order to purchase a ticket or play a video lottery game.

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

15        SECTION 1.25. Section 466.3053, Government Code, is amended  
16 to read as follows:

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

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

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

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

27        SECTION 1.26. Section 466.306, Government Code, is amended

1 to read as follows:

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

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

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

12           (a) A person commits an offense if the person intentionally  
13 or knowingly tampers with, damages, defaces, or renders inoperable  
14 any vending machine, electronic computer terminal, video lottery  
15 terminal or other video lottery equipment, or other mechanical  
16 device used in a lottery game.

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

19           Sec. 466.317. PROHIBITION AGAINST SALE OF CERTAIN LOTTERY  
20 TICKETS OR OPERATION OF CERTAIN VIDEO LOTTERY SYSTEMS.

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

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

26           (b) The state may enter into a compact with another state or  
27 state government [~~or an Indian tribe or tribal government~~] to

1 permit the sale of lottery tickets of this state in the state's[~~7~~  
2 ~~tribe's,~~] or government's jurisdiction and to allow the sale of the  
3 state's[~~7~~~~tribe's,~~] or government's lottery tickets in this state.

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

7 SECTION 1.30. Subchapter H, Chapter 466, Government Code,  
8 is amended by adding Section 466.360 to read as follows:

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

12 SECTION 1.31. Section 466.355(a), Government Code, is  
13 amended to read as follows:

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

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

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

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

SUBCHAPTER K. VIDEO LOTTERY

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

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

(2) Except for the operation of video lottery terminals on certain Indian lands as defined by the Texas Constitution, the people of this state intend to allow only state-controlled video lottery games to be conducted in this state and only in locations at which pari-mutuel wagering is conducted at racetracks.

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

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

(B) limiting video lottery licensing to a fixed number of existing racetracks;

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

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

(4) This state's ability to monitor and control the

1 operation of all video lottery terminals ensures the integrity of  
2 the system and provides for the most efficient oversight and  
3 supervision. Costs incurred for oversight and supervision of  
4 gambling will be significantly less than if video lottery terminals  
5 were not operated as part of the video lottery system. In addition,  
6 providing for the state-controlled system will defend against  
7 criminal infiltration of gambling operations.

8 (5) The video lottery games operated at racetracks  
9 under this chapter are controlled by this state in a manner that  
10 allows the state to continuously monitor all video lottery  
11 terminals and to disable any video lottery terminal for the  
12 protection of the public and this state.

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

19 (7) The authorization for state-controlled video  
20 lottery terminals for the purpose of raising revenue is consistent  
21 with this state's public policy prohibiting gambling so long as the  
22 gambling is not, in any way, expanded beyond that directly  
23 controlled by this state. Expanded gambling beyond this limited  
24 form of state-controlled gambling would compromise the public  
25 safety, law, and long-standing policy against gambling in this  
26 state. In addition, such expanded gambling could impose  
27 prohibitive cost on this state's regulatory system and, therefore,

1 defeat the effort to raise revenue through authorized video lottery  
2 terminals. For all of these reasons, any interpretation that  
3 allows for casino gaming of the type operating in Nevada and New  
4 Jersey in 2004 at racetracks or on Indian lands as a result of the  
5 authorization of video lottery terminals would have severe adverse  
6 consequences on this state's efforts to raise revenue for public  
7 education and other governmental programs through the operation of  
8 video lottery terminals and would violate the public policy against  
9 gambling in such a way that would clearly outweigh any potential  
10 positive economic consequences.

11 (8) In authorizing only a state-controlled and  
12 state-operated video lottery system and state-controlled video  
13 lottery terminals in limited locations and continuing the general  
14 prohibition on gambling in this state as a matter of public policy,  
15 this state is protecting the state's legitimate interests by  
16 restricting such vice activity. By limiting operation of video  
17 lottery terminals to those connected to the state-controlled video  
18 lottery system and to certain lands and certain types of games, the  
19 legislature seeks to foster this state's legitimate sovereign  
20 interest in regulating the growth of gambling activities in this  
21 state. Historically, this state has banned commercial gambling  
22 altogether and, therefore, it is in this state's best interest to  
23 limit the placement of commercial gambling operations to certain  
24 locations. Limiting video lottery terminals to those controlled by  
25 this state and located on racetracks where regulated gambling  
26 already occurs is reasonably designed to defend against the  
27 criminal infiltration of gambling operations and adverse impacts on

1 communities statewide. By restricting gambling such as video  
2 lottery terminals to carefully limited locations and video lottery  
3 terminals controlled by this state that may be disabled by this  
4 state if necessary to protect the public, this state furthers the  
5 state's purpose of ensuring that such gambling activities are free  
6 from criminal and undesirable elements.

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

14 (10) In considering limitations on expanded gambling  
15 in this state, it is a critical factor to effectuate the will of the  
16 voters that any gaming on lands of the Ysleta del Sur Pueblo and  
17 Alabama-Coushatta Indian tribes must be in strict compliance with  
18 state law. The Kickapoo Traditional Tribe of Texas is only entitled  
19 to operate video lottery terminals in strict compliance with state  
20 law, unless otherwise required by federal law and in accordance  
21 with a gaming agreement negotiated with the governor and ratified  
22 by the legislature. A tribe may not under any circumstances operate  
23 Class III gaming as defined by federal law other than video lottery  
24 terminals connected to a video lottery central system controlled  
25 and operated by this state.

26 (11) The voters have conferred a substantial economic  
27 benefit on federally recognized Indian tribes by allowing operation

1 of video lottery terminals on lands held in trust by the Ysleta del  
2 Sur Pueblo and Alabama-Coushatta Indian tribes at the time of the  
3 ratification and approval of Section 47(f), Article III, Texas  
4 Constitution, and on Indian lands of the Kickapoo Traditional Tribe  
5 of Texas on which gaming is allowed under applicable federal law.  
6 These tribes have the exclusive right to operate video lottery  
7 terminals at locations on the Indian lands in this state without  
8 incurring the investment necessary to construct, maintain, and  
9 operate racetracks for live racing, and through revenue-sharing  
10 both the policy of self-governance for the tribes and this state's  
11 interests in generating additional revenue for public education and  
12 other state governmental programs can be promoted.

13 (12) The public has an interest in video lottery game  
14 operations, and lottery operations conducted under Section 47(f),  
15 Article III, Texas Constitution, and this chapter represent an  
16 exception to the general policy of this state prohibiting wagering  
17 for private gain. Therefore, participation in a video lottery game  
18 by a license or registration holder under this chapter is  
19 considered a privilege conditioned on the proper and continued  
20 qualification of the license or registration holder and on the  
21 discharge of the affirmative responsibility of each license or  
22 registration holder to provide to the regulatory and investigatory  
23 authorities established by this chapter any assistance and  
24 information necessary to assure that the policies declared by this  
25 chapter are achieved. Consistent with this policy, it is the intent  
26 of this chapter to:

27 (A) preclude the creation of any property right

1 in any license, registration, or approval issued or granted by this  
2 state under this chapter, the accrual of any value to the privilege  
3 of participation in any video lottery game operation, or the  
4 transfer of a license or permit; and

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

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

12 Sec. 466.502. LOCAL LAW PREEMPTED; APPLICABILITY OF OTHER  
13 LAWS. (a) This subchapter applies uniformly throughout this state  
14 and all political subdivisions of this state.

15 (b) To the extent of any inconsistency between Chapter 2003  
16 and a commission rule governing video lottery terminals or a  
17 provision of this subchapter, the commission rule or provision of  
18 this subchapter controls in all matters related to video lottery  
19 terminals, including hearings before the State Office of  
20 Administrative Hearings.

21 Sec. 466.503. AUTHORITY TO OPERATE VIDEO LOTTERY. (a) The  
22 commission may implement and operate a video lottery system and  
23 control the operation of video lottery terminals at racetracks in  
24 accordance with this chapter and the applicable provisions of the  
25 Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).  
26 This chapter supersedes any conflicting or inconsistent provision  
27 of the Texas Racing Act (Article 179e, Vernon's Texas Civil

1 Statutes) or other state law.

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

6 (c) For purposes of this chapter, this state may acquire a  
7 proprietary interest in video lottery game software through:

8 (1) ownership of the software; or

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

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

18 Sec. 466.5031. STATE CONTROL OF VIDEO LOTTERY SYSTEM. (a)  
19 In accordance with Section 47(f), Article III, Texas Constitution,  
20 the commission shall control and operate the video lottery system  
21 and the video lottery central system through which this state has  
22 the exclusive and unilateral ability to monitor activity of video  
23 lottery terminals and remotely disable video lottery terminals for  
24 the public safety, health, and welfare or the preservation of the  
25 integrity of the lottery and to prevent any financial loss to the  
26 state. This section does not affect or restrict the ability of the  
27 video lottery manager to monitor activity of video lottery

1 terminals and to disable video lottery terminals in accordance with  
2 commission rules.

3 (b) The commission may disable a video lottery terminal if a  
4 video lottery retailer's or video lottery manager's license is  
5 revoked, surrendered, or summarily suspended under Section  
6 466.50341, or to prevent any financial loss to the state.

7 Sec. 466.5032. VIDEO LOTTERY CENTRAL SYSTEM. (a) The  
8 commission shall establish or cause to be established a video  
9 lottery central system to link all video lottery terminals in the  
10 video lottery system. The video lottery central system must be a  
11 central determinant system that provides lottery outcomes from a  
12 central determination computer that is transmitted to video lottery  
13 terminals in a manner prescribed by the commission. The video  
14 lottery central system must provide the auditing and other  
15 information required by the commission.

16 (b) The commission shall provide to a registered video  
17 lottery terminal provider or an applicant applying for registration  
18 as a video lottery terminal provider the protocol documentation  
19 data necessary to enable the provider's or applicant's video  
20 lottery terminals to communicate with the commission's video  
21 lottery central system for transmission of auditing program  
22 information and for activation and disabling of video lottery  
23 terminals.

24 (c) The video lottery central system may not limit or  
25 preclude potential video lottery terminal providers from providing  
26 video lottery terminals except for providers that fail to meet  
27 specifications set by the commission.

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

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

5       (f) The commission may not contract with a person to provide  
6 the video lottery central system if that person owned, on January 1,  
7 2005, any interest in a racetrack or pari-mutuel license in this  
8 state.

9       Sec. 466.5033. REGISTRATION AND APPROVAL OF VIDEO LOTTERY  
10 TERMINAL PROVIDERS. (a) A person may not manufacture or  
11 distribute video lottery equipment for use or play in this state  
12 unless the person is registered under this chapter as a video  
13 lottery terminal provider or is otherwise approved by the  
14 commission to manufacture or distribute video lottery equipment in  
15 this state.

16       (b) Unless suspended or revoked, the registration or  
17 approval expires on the date specified by the commission, which may  
18 not be later than the fifth anniversary of the date of the  
19 registration or approval.

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

23       (d) The commission shall adopt rules governing the  
24 registration and approval of video lottery terminal providers. The  
25 rules at a minimum must require the application and any other form  
26 or document submitted to the commission by or on behalf of the  
27 applicant to determine qualification under this section to be sworn

1 to or affirmed before an officer qualified to administer oaths. The  
2 applicant must provide the following information:

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

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

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

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

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

14 (6) if the applicant is incorporated under laws other  
15 than the laws of this state, an irrevocable designation by the  
16 applicant of the secretary of state as resident agent for service of  
17 process and notice in accordance with the law 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 for gambling-related activities during the  
13 preceding 10 years from the date of the filing of the application;

14 (11) a statement indicating whether the applicant or  
15 an officer, director, or substantial interest-holder of the  
16 applicant has ever had a license, registration, qualification, or  
17 other approval for gambling-related activities denied, revoked, or  
18 suspended by any jurisdiction or has been fined or otherwise  
19 required to pay penalties or monetary forfeitures for  
20 gambling-related activities in any jurisdiction, including all  
21 related details; 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 (e) 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          (f) 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 process must  
16 include an on-site review of the applicant's manufacturing  
17 equipment and process for each separate type of authorized video  
18 lottery equipment to ensure capability to comply with all  
19 regulatory requirements of this chapter or rules adopted under this  
20 chapter.

21          (g) The applicant, not later than the 10th day after the  
22 date of the change, shall notify the commission of any change in the  
23 information submitted on or with the application form, including  
24 changes that occur after the registration or other commission  
25 approval has been granted.

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

1       (i) An applicant seeking registration or approval under  
2 this section must pay a nonrefundable application fee in the amount  
3 prescribed by commission rule that is sufficient to pay the costs to  
4 the commission of administering this section. Application fees  
5 paid under this subsection shall be retained by the commission to  
6 defray costs incurred in the administration and enforcement of this  
7 chapter relating to the operation of video lottery terminals.

8       (j) The commission may not register or approve an applicant  
9 under this section if the applicant owned, on January 1, 2005, any  
10 interest in a racetrack or pari-mutuel license in this state.

11       Sec. 466.5034. LICENSING OF VIDEO LOTTERY RETAILERS AND  
12 VIDEO LOTTERY MANAGERS. (a) Except as provided by a gaming  
13 agreement, a person may not own or operate a video lottery terminal  
14 if the person does not satisfy the requirements of this section and  
15 is not licensed by the commission to act as a video lottery retailer  
16 or video lottery manager.

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

22       (c) An applicant for a video lottery retailer or video  
23 lottery manager license must submit a nonrefundable application  
24 processing fee in the amount prescribed by commission rule that is  
25 sufficient and reasonable to pay the costs of determining the  
26 applicant's eligibility. An application may not be processed until  
27 the applicant provides the nonrefundable application fee. If the

1 application fee is not received within 30 days of the date the  
2 commission notifies the applicant of the amount of the fee, the  
3 application is considered withdrawn and may not be considered by  
4 the commission. The application processing fee may not exceed  
5 \$50,000.

6 (d) The commission shall not accept an application for a  
7 video lottery retail license from a racetrack whose licensed  
8 premises property line is less than one-half mile from the property  
9 line of a school or church.

10 (e) An applicant for a license under this section must apply  
11 to the commission under rules adopted by the commission, provide  
12 the information necessary to determine the applicant's eligibility  
13 for a license, and provide other information considered necessary  
14 by the commission. An applicant must:

15 (1) hold a valid pari-mutuel license granted by the  
16 Texas Racing Commission under the Texas Racing Act (Article 179e,  
17 Vernon's Texas Civil Statutes) and own or manage a racetrack as  
18 defined by Section 466.002;

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

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

1 state.

2 (f) An applicant for a video lottery retailer or video  
3 lottery manager license has the burden of proving qualification for  
4 a license by clear and convincing evidence. In addition to  
5 satisfying minimum requirements established by commission rules,  
6 an applicant for a video lottery retailer or video lottery manager  
7 license must:

8 (1) be a person of good character, honesty, and  
9 integrity;

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

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

26 (4) not have been convicted of an offense under this  
27 chapter or of any crime related to theft, bribery, gambling, or

1 involving moral turpitude;

2 (5) demonstrate adequate business probity,  
3 competence, experience, and financial stability as defined by the  
4 commission;

5 (6) demonstrate adequate financing for the operation  
6 of the facility at which the video lottery terminals will be  
7 operated by disclosing all financing or refinancing arrangements  
8 for the purchase, lease, or other acquisition of video lottery  
9 equipment in the degree of detail requested by the commission, and  
10 the commission shall determine whether the financing is from a  
11 source that meets the requirements of this section and is adequate  
12 to support the successful performance of the duties and  
13 responsibilities of the license holder;

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

18 (8) demonstrate that each substantial interest-holder  
19 meets all applicable qualifications under this subchapter;

20 (9) provide all information, including financial data  
21 and documents, consents, waivers, providers of surety and insurance  
22 and any other materials requested by the commission for purposes of  
23 determining qualifications for a license; and

24 (10) as part of its application, expressly waive any  
25 and all claims against the commission, this state, and a member,  
26 officer, employee, or authorized agent of the commission or this  
27 state for damages resulting from any background investigation,

1 disclosure, or publication relating to an application for a video  
2 lottery retailer or video lottery manager license.

3 (g) An application, registration, or disclosure form and  
4 any other document submitted to the commission by or on behalf of  
5 the applicant for purposes of determining qualification for a video  
6 lottery retailer or video lottery manager license must be sworn to  
7 or affirmed before an officer qualified to administer oaths.

8 (h) An applicant who knowingly fails to reveal any fact  
9 material to qualification for a license, finding of suitability, or  
10 other approval or who knowingly submits false or misleading  
11 material information is ineligible for a video lottery retailer or  
12 video lottery manager license.

13 (i) An applicant for a facility site for a video lottery  
14 terminal establishment must ensure that the facility will comply  
15 with all applicable building codes and rules of the commission.  
16 Rules adopted by the commission related to facilities shall be  
17 limited to those matters related solely to the state's interest in  
18 the operation of video lottery terminals. A video lottery terminal  
19 establishment shall provide office space for the commission  
20 sufficient for at least one commission employee.

21 (j) An applicant or license holder must provide information  
22 as required by commission rule relating to the applicant's or  
23 license holder's video lottery terminal establishment and update  
24 the information at least annually.

25 (k) An applicant shall notify the commission of any change  
26 in the application information for a license or renewal of a license  
27 not later than the 10th day after the date of the change, except

1 that a publicly traded corporation or other business association or  
2 entity applicant is not required to notify the commission of a  
3 transfer by which any person directly or indirectly becomes the  
4 beneficial owner of less than 10 percent of the stock of the  
5 corporation or association.

6 (l) Except as provided by Subsection (n), the commission  
7 shall deny an application for a license or shall suspend or revoke a  
8 license if the commission finds that the applicant would be subject  
9 to denial or revocation of a sales agent license under Section  
10 466.155.

11 (m) Notwithstanding Section 466.155, the commission may not  
12 deny, suspend, or revoke a license under this chapter based on the  
13 fact that a video lottery terminal establishment or a proposed  
14 video lottery terminal establishment is a location for which a  
15 person holds a wine and beer retailer's permit, mixed beverage  
16 permit, mixed beverage late hours permit, private club registration  
17 permit, or private club late hours permit, issued under Chapter 25,  
18 28, 29, 32, or 33, Alcoholic Beverage Code.

19 (n) The holder of a license under this subchapter may  
20 operate as a sales agent for lottery tickets in accordance with this  
21 chapter.

22 (o) Unless suspended or revoked, a license, other than a  
23 video lottery retailer license, issued under this subchapter  
24 expires on the date specified in the license, which may not be later  
25 than the fifth anniversary of the date of issuance. A video lottery  
26 retailer license has the same term as a pari-mutuel license and is  
27 valid until suspended or revoked. To be eligible for renewal of a

1 license, an applicant must satisfy all licensing requirements under  
2 this subchapter. The commission may charge an annual fee, not to  
3 exceed \$50,000, to the holder of a video lottery retailer license.

4 (p) An application to receive or renew a license or to be  
5 found suitable constitutes a request for a determination of the  
6 applicant's general character, integrity, and ability to  
7 participate or engage in or be associated with the operation of  
8 video lottery terminals. Any written or oral statement made in the  
9 course of an official commission proceeding or investigative  
10 activities related to an application for commission licensing,  
11 registration, or other approval under this subchapter, by any  
12 member or agent or any witness testifying under oath that is  
13 relevant to the purpose of the proceeding is absolutely privileged  
14 and does not impose liability for defamation or constitute a ground  
15 for recovery in any civil action.

16 (q) The commission by rule may establish other license  
17 qualifications the commission determines are in the public interest  
18 and consistent with the declared policy of this state.

19 (r) The commission in its discretion may require a  
20 suitability finding for any person doing business with or in  
21 relation to the operation of video lottery terminals who is not  
22 otherwise required to obtain a license or registration from the  
23 commission for the person's video lottery-related business  
24 operations.

25 Sec. 466.50341. SUMMARY SUSPENSION; TERMINAL DISABLED. (a)  
26 The commission may summarily suspend the license of a video lottery  
27 retailer or video lottery manager without notice or hearing if the

1 commission finds the action is necessary to maintain the integrity,  
2 security, honesty, or fairness of the operation or administration  
3 of the lottery or to prevent financial loss to this state and:

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

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

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

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

17 (b) A summary suspension under this subchapter must comply  
18 with the notice and procedure requirements provided by Section  
19 466.160.

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

22 (1) a proceeding to summarily suspend the license is  
23 initiated;

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

1           (3) of the occurrence of an act or omission that, under  
2 commission rules, justifies the termination of video lottery  
3 terminal operations to protect the public health, welfare, or  
4 safety or the integrity of the lottery or to prevent financial loss  
5 to this state.

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

9           Sec. 466.50342. TRANSFER RESTRICTIONS. (a) A video  
10 lottery retailer or video lottery manager license is not  
11 transferable.

12           (b) A pari-mutuel license holder that sells, transfers,  
13 assigns, or otherwise conveys any interest or control in the  
14 pari-mutuel license or the racetrack owned or managed by the  
15 license holder before video lottery operations begin at the  
16 racetrack or before the third anniversary of the commencement of  
17 video lottery operations shall remit to this state a transfer fee  
18 equal to 75 percent of the sales, transfer, assignment, or other  
19 conveyance price or other consideration received by the pari-mutuel  
20 license holder. A transfer or conveyance of an interest or control  
21 under this subsection may not be approved by the Texas Racing  
22 Commission until the payment to this state under this subsection  
23 has been fully paid.

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

27           Sec. 466.5035. LICENSING, REGISTRATION, SUITABILITY,

1 QUALIFICATION, AND REGULATORY APPROVAL AS REVOCABLE PERSONAL  
2 PRIVILEGES. (a) An applicant for a license, registration,  
3 suitability, qualification, or other affirmative regulatory  
4 approval under this subchapter does not have any right to the  
5 license, registration, suitability, or qualification, or the  
6 granting of the approval sought. Any license, registration,  
7 suitability, or qualification issued or other regulatory approval  
8 granted under this subchapter is a revocable privilege, and a  
9 holder of the privilege does not acquire any vested right in or  
10 under the privilege. The courts of this state do not have  
11 jurisdiction to review a decision to deny, limit, or condition the  
12 license, registration, suitability, qualification, or request for  
13 approval unless the judicial review is sought on the ground that the  
14 denial, limitation, or condition is based on a suspect  
15 classification, such as race, color, religion, sex, or national  
16 origin, in violation of the Equal Protection Clause of the  
17 Fourteenth Amendment to the United States Constitution. If a state  
18 court has jurisdiction over a claim under this section, then this  
19 state's sovereign immunity is waived only to the extent expressly  
20 provided by Section 466.515.

21 (b) A license, registration, suitability, qualification, or  
22 regulatory approval granted or renewed under this subchapter may  
23 not be transferred or assigned to another person, and a license,  
24 registration, suitability, qualification, or approval may not be  
25 pledged as collateral. The purchaser or successor of a person who  
26 has been granted a license, registration, suitability,  
27 qualification, or regulatory approval must independently qualify

1 for a license, registration, suitability, qualification, or  
2 approval required by this subchapter.

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

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

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

13 Sec. 466.5036. VIDEO LOTTERY TERMINAL ESTABLISHMENT;  
14 PROCUREMENT OF VIDEO LOTTERY TERMINALS. (a) A video lottery  
15 retailer or video lottery manager shall provide all necessary  
16 capital investments and required improvements at a video lottery  
17 terminal establishment operated by the retailer or manager.

18 (b) The commission shall provide all video lottery  
19 retailers or video lottery managers with a list of registered video  
20 lottery terminal providers, video lottery games, and video lottery  
21 terminals authorized for operation under this subchapter.

22 (c) At the time and in the manner prescribed by commission  
23 rule, a video lottery retailer or video lottery manager shall remit  
24 to the commission a \$2,500 fee for each video lottery terminal  
25 delivered to the video lottery terminal establishment operated by  
26 the retailer or manager.

27 (d) A video lottery terminal provider may not distribute a

1 video lottery terminal or other video lottery equipment for  
2 placement at a video lottery terminal establishment in this state  
3 unless the video lottery terminal has been approved by the  
4 commission. Only a video lottery terminal provider registered with  
5 the commission may apply for approval of a video lottery terminal or  
6 other video lottery equipment. At least 10 days before the date of  
7 shipment to a location in this state, a video lottery terminal  
8 provider shall file a report with the commission itemizing all  
9 video lottery terminals and other video lottery equipment to be  
10 provided to a video lottery retailer or video lottery manager in the  
11 shipment.

12 (d-1) A video lottery terminal provider shall submit two  
13 copies of terminal illustrations, schematics, block diagrams,  
14 circuit analysis, technical and operation manuals, and any other  
15 information requested by the commission for the purpose of  
16 analyzing and testing the video lottery terminal or other video  
17 lottery equipment.

18 (e) The commission may require a working model of a video  
19 lottery terminal to be provided unless the video lottery terminal  
20 provider can provide a certification by an approved independent  
21 testing laboratory that the video lottery terminal is compatible  
22 and functions as required by the commission.

23 (f) The video lottery terminal provider is responsible for  
24 the assembly and installation of all video lottery terminals and  
25 other video lottery equipment. The video lottery terminal provider  
26 and video lottery retailer or video lottery manager may not change  
27 the assembly or operational functions of a video lottery terminal

1 authorized by the commission for placement in this state unless a  
2 request for modification of an existing video lottery terminal  
3 prototype is approved by the commission. The request must contain:

4 (1) a detailed description of the type of change;

5 (2) a detailed description of the reasons for the  
6 change; and

7 (3) technical documentation of the change.

8 (g) A video lottery terminal approved by the commission for  
9 placement at a video lottery terminal establishment must conform to  
10 the specifications of the video lottery terminal prototype tested  
11 or approved by the commission. If any video lottery terminal that  
12 has not been approved by the commission is distributed by a video  
13 lottery terminal provider or operated by a video lottery retailer  
14 or video lottery manager or if an approved video lottery terminal  
15 malfunctions, the commission shall require the terminal to be  
16 removed from use and play. The commission may order that an  
17 unapproved terminal be seized and destroyed. The commission may  
18 suspend or revoke the license of the video lottery retailer or video  
19 lottery manager or the registration of a video lottery terminal  
20 provider for the distribution, possession, or operation of an  
21 unauthorized video lottery terminal. A video lottery retailer or  
22 video lottery manager may retain on the premises of the video  
23 lottery terminal establishment a number of machines that the  
24 retailer or manager deems necessary to provide for spare parts,  
25 repair purposes or as replacement machines. The retailer or  
26 manager must each month provide a list of machines it retains under  
27 this paragraph to the commission.

1       (h) The commission shall adopt rules for approval of video  
2 lottery terminals, including requirements for video lottery game  
3 tickets, maximum and minimum payout, and maximum wagers. A  
4 commission-approved video lottery terminal must meet the following  
5 minimum specifications:

6           (1) a surge protector must be installed on the  
7 electrical power supply line to each video lottery terminal, a  
8 battery or equivalent power backup for the electronic meters must  
9 be capable of maintaining the accuracy of all accounting records  
10 and video lottery terminal status reports for a period of 180 days  
11 after power is disconnected from the video lottery terminal, and  
12 the power backup device must be in the compartment specified in  
13 Subdivision (3);

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

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

20           (4) the instructions for play of each game must be  
21 displayed on the video lottery terminal face or screen, including a  
22 display detailing the credits awarded for the occurrence of each  
23 possible winning combination of numbers or symbols, and the  
24 commission may reject any instructions for play that the commission  
25 determines to be incomplete, confusing, or misleading;

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

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

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

9 Sec. 466.5037. TRAVEL AND INVESTIGATION COSTS. The travel  
10 and investigative expenses of the commission shall be paid from  
11 money appropriated to the commission.

12 Sec. 466.5038. CONSENT TO COMMISSION DETERMINATION. An  
13 application for a license, registration, finding of suitability,  
14 qualification, or other approval and any other factor attaching to  
15 an application under this chapter or Chapter 467 and the rules  
16 adopted under this chapter or Chapter 467 constitutes a request to  
17 the commission for a decision on the applicant's general  
18 suitability, character, integrity, and ability to participate or  
19 engage in or be associated with the lottery in the manner or  
20 position sought. By filing an application with the commission, the  
21 applicant specifically consents to the commission's decision at the  
22 commission's election when the application, after filing, becomes  
23 moot for any reason other than death.

24 Sec. 466.5039. ABSOLUTE AUTHORITY OF COMMISSION; AUTHORITY  
25 TO WAIVE REQUIREMENTS; EFFECT OF DENIAL. (a) The commission has  
26 full and absolute power and authority to deny any application or  
27 limit, condition, restrict, revoke, or suspend any license,

1 registration, or finding of suitability or approval, and to fine  
2 any person licensed, registered, found suitable, or approved for  
3 any cause deemed reasonable by the commission.

4 (b) The commission may waive any requirement under this  
5 chapter for a finding of suitability of an institutional investor  
6 that is a substantial interest holder with respect to the  
7 beneficial ownership of the voting securities of a publicly traded  
8 corporation if the institutional investor holds the securities for  
9 investment purposes only. An institutional investor is not  
10 eligible for the waiver, except as otherwise provided by Subsection  
11 (c), if the institutional investor beneficially owns, directly or  
12 indirectly, more than 15 percent of the voting securities and if any  
13 of the voting securities were acquired other than through a debt  
14 restructuring. Voting securities acquired before a debt  
15 restructuring and retained after a debt restructuring or as a  
16 result of an exchange, exercise, or conversion after a debt  
17 restructuring, or any securities issued to the institutional  
18 investor through a debt restructuring, are considered to have been  
19 acquired through a debt restructuring. A waiver granted under this  
20 subsection is effective only as long as the institutional  
21 investor's direct or indirect beneficial ownership interest in the  
22 voting securities meets the limitations set forth in this section,  
23 and if the institutional investor's interest exceeds the limitation  
24 at any time, the investor is subject to the suitability findings  
25 required under this chapter.

26 (c) An institutional investor that has been granted a waiver  
27 under Subsection (b) may beneficially own more than 15 percent, but

1 not more than 19 percent, of the voting securities of a publicly  
2 traded corporation registered with or licensed by the commission  
3 only if the additional ownership results from a stock repurchase  
4 program conducted by the publicly traded corporation and on the  
5 conditions that the institutional investor does not purchase or  
6 otherwise acquire any additional voting securities of the publicly  
7 traded corporation that would result in an increase in the  
8 institutional investor's ownership percentage and the  
9 institutional investor reduces its ownership percentage of the  
10 publicly traded corporation to 15 percent or less before the first  
11 anniversary of the date the institutional investor receives  
12 constructive notice that it exceeded the 15 percent threshold,  
13 based on any public filing by the corporation with the United States  
14 Securities and Exchange Commission. The one-year time period may  
15 be extended for a reasonable time on commission approval.

16 (d) An institutional investor may not be considered to hold  
17 voting securities of a publicly traded corporation for investment  
18 purposes only unless the voting securities were acquired and are  
19 held in the ordinary course of business as an institutional  
20 investor and not for the purpose of causing, directly or  
21 indirectly, the election of a majority of the members of the board  
22 of directors, any change in the corporate charter, bylaws,  
23 management, policies, or operations of the corporation registered  
24 with or licensed by the commission or any of its gaming affiliates,  
25 or any other action which the commission finds to be inconsistent  
26 with investment purposes only. The following activities may not be  
27 considered to be inconsistent with holding voting securities for

1 investment purposes only:

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

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

7 (3) nominating any candidate for election or  
8 appointment to the board of directors in connection with a debt  
9 restructuring;

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

13 (5) making financial and other management inquiries of  
14 the type normally made by securities analysts for information  
15 purposes and not to cause a change in management, policies, or  
16 operations; and

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

19 (e) An application for a waiver under Subsection (b) must  
20 include:

21 (1) a description of the institutional investor's  
22 business and a statement as to why the institutional investor meets  
23 the definition of an institutional investor set forth in this  
24 chapter;

25 (2) a certification, made under oath and penalty of  
26 perjury, that the voting securities were acquired and are held for  
27 investment purposes only as defined in Subsection (b), provided the

1 certification also states that the applicant agrees to be bound by  
2 and comply with this chapter and the rules adopted under this  
3 chapter, to be subject to the jurisdiction of the courts of this  
4 state, and to consent to this state as the choice of forum in the  
5 event any dispute, question, or controversy arises regarding the  
6 application or any waiver granted under Subsection (b), and a  
7 statement by the signatory explaining the basis of the signatory's  
8 authority to sign the certification and bind the institutional  
9 investor to its terms;

10 (3) a description of all actions, if any, taken or  
11 expected to be taken by the institutional investor related to the  
12 activities described in Subsection (c);

13 (4) the names, addresses, telephone numbers, dates of  
14 birth, and social security numbers of the officers and directors of  
15 the institutional investor, or the officers' and directors'  
16 equivalents, as well as the persons that have direct control over  
17 the institutional investor's holdings of voting securities of the  
18 publicly traded corporation registered with or licensed by the  
19 commission;

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

26 (6) the name of each person that beneficially owns  
27 more than five percent of the institutional investor's voting

1 securities or other equivalent;

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

3 (8) a list of all securities of the publicly traded  
4 corporation registered with or licensed by the commission that are  
5 or were beneficially owned by the institutional investor or its  
6 affiliates within the preceding year, setting forth a description  
7 of the securities, the amount of the securities, and the date of  
8 acquisition or sale of the securities;

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

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

25 (11) a copy of the institutional investor's most  
26 recent Schedule 13D or 13G and any amendments to that schedule filed  
27 with the United States Securities and Exchange Commission

1 concerning any voting securities of the publicly traded corporation  
2 registered with or licensed by the commission;

3 (12) a copy of any filing made under the Securities  
4 Exchange Act of 1934 (15 U.S.C. Section 78a) with respect to the  
5 acquisition or proposed acquisition of voting securities of the  
6 publicly traded corporation registered with or licensed by the  
7 commission; and

8 (13) any additional information the commission may  
9 request.

10 (f) An institutional investor that has been granted a waiver  
11 of a finding of suitability and that subsequently intends not to  
12 hold the investor's voting securities of the publicly traded  
13 corporation for investment purposes only or that intends to take  
14 any action inconsistent with the investor's prior intent shall,  
15 within two business days after the date of the decision, deliver  
16 notice to the commission in writing of the change in the investor's  
17 investment intent. The commission may then take any action the  
18 commission deems appropriate. If the commission finds that an  
19 institutional investor has failed to comply with this chapter or is  
20 subject to a finding of suitability to protect the public interest,  
21 the commission may require the institutional investor to apply for  
22 a finding of suitability. Any publicly traded corporation  
23 registered with or licensed by the commission shall immediately  
24 notify the commission of any information about, fact concerning, or  
25 actions of an institutional investor holding any of its voting  
26 securities that may materially affect the institutional investor's  
27 eligibility to hold a waiver under this section.

1       (g) The commission may waive, either selectively or by  
2 general rule, one or more of the requirements of Sections 466.5033  
3 and 466.5034 if the commission makes a written finding that the  
4 waiver is consistent with the policy of this state, the public  
5 health, safety, and welfare, and the integrity of the lottery.

6       (h) A person whose application for a license or registration  
7 has been denied may not have any interest in or association with a  
8 video lottery retailer or video lottery manager or any other  
9 business conducted in connection with video lottery without prior  
10 permission of the commission. Any contract between a person holding  
11 a license or registration and a person denied a license or  
12 registration must be terminated immediately on receipt of notice  
13 from the commission. If the person denied a license or registration  
14 has previously been granted a temporary license or registration,  
15 the temporary license or registration expires immediately on denial  
16 of the permanent license or registration. Except as otherwise  
17 authorized by the commission, a person denied a license or  
18 registration may not reapply for any license or registration before  
19 the second anniversary of the date of the denial.

20       (i) For purposes of this section, "debt restructuring"  
21 means:

22               (1) a proceeding under the United States Bankruptcy  
23 Code; or

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

27       Sec. 466.504.     LIMITATION ON OPERATION OF VIDEO LOTTERY

1 TERMINALS. (a) Except as otherwise provided by the commission, the  
2 hours of operation for video lottery terminals are subject to  
3 restrictions only as provided by commission rules. The commission  
4 by rule may prescribe restrictions on the hours of video lottery  
5 terminal operations for purposes determined by the commission,  
6 including accounting for and collecting revenue generated by video  
7 lottery terminal operations and performing other operational  
8 services on the video lottery system.

9 (b) Communication between the video lottery central system  
10 and each video lottery terminal must be continuous and on a  
11 real-time basis as prescribed by the commission.

12 (c) Except as may be provided by a gaming agreement,  
13 placement or movement of video lottery terminals in a video lottery  
14 terminal establishment must be consistent with a video lottery  
15 terminal establishment floor plan filed with the commission.

16 (d) A video lottery retailer or video lottery manager must:

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

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

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

22 (4) promptly report all video lottery terminal  
23 malfunctions and down-time;

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

26 (6) prohibit illegal gambling and any related  
27 paraphernalia;

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

4           (8) supervise employees and activities to ensure  
5 compliance with all commission rules and this subchapter;

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

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

14           (e) A video lottery retailer at all times must hold a valid  
15 pari-mutuel wagering license, except that the commission may allow  
16 a video lottery retailer whose pari-mutuel wagering license has  
17 lapsed or been revoked, suspended, or surrendered to reapply for a  
18 license in order to operate the video lottery terminal  
19 establishment or by rule may establish a period not to exceed two  
20 years during which time the video lottery terminal establishment  
21 may be operated pending acquisition by a person qualified and  
22 licensed under this chapter to operate video lottery terminals. If  
23 the video lottery retailer is not licensed before the second  
24 anniversary of the date a license lapses or is revoked, suspended,  
25 or surrendered or a new video lottery manager or video lottery  
26 retailer is not licensed and authorized to operate the facility  
27 before the second anniversary, the pari-mutuel license holder shall

1 permanently lose eligibility under this chapter to operate video  
2 lottery terminals. Subject to the commission's discretion, the  
3 video lottery retailer may continue to operate the video lottery  
4 terminal establishment after the second anniversary only to satisfy  
5 the establishment's existing outstanding debt attributable to  
6 video lottery operation.

7 (f) All transportation and movement of video lottery  
8 terminals into or within this state is prohibited, except as  
9 permitted by this subchapter and approved by the commission.

10 (g) 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.

13 (h) A video lottery retailer or a video lottery manager, if  
14 applicable, is responsible for the management of video lottery game  
15 operations, including validation and payment of prizes and the  
16 management of cashiers, food and beverage workers, floor workers,  
17 security personnel, the security system, building completion,  
18 janitorial services, landscaping design, and maintenance. Nothing  
19 in this subsection limits the authority of the commission, the  
20 Department of Public Safety, or another law enforcement agency to  
21 administer and enforce this chapter as related to video lottery.

22 (i) The commission shall adopt rules governing:

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

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

27 (j) The video lottery central system provider shall pay for

1 the installation and operation of commission-approved  
2 communication technology to provide real-time communication  
3 between each video lottery terminal and the video lottery central  
4 system.

5 (k) In addition to other requirements under this chapter  
6 relating to video lottery, a video lottery retailer or a video  
7 lottery manager at all times shall:

8 (1) operate only video lottery terminals that are  
9 distributed by a registered video lottery terminal provider and  
10 provide a secure location for the placement, operation, and play of  
11 the video lottery terminals;

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

14 (3) ensure that communication technology from the  
15 video lottery central system to the video lottery terminals is  
16 connected and prevent any person from tampering or interfering with  
17 the operation of the connection;

18 (4) ensure that video lottery terminals are in the  
19 sight and control of designated employees of the video lottery  
20 retailer or video lottery manager and in the sight of video cameras  
21 as required under this subchapter;

22 (5) ensure that video lottery terminals are placed and  
23 remain placed in the locations in the video lottery terminal  
24 establishment that are consistent with the retailer's or manager's  
25 commission-approved floor plan;

26 (6) monitor video lottery terminals to prevent access  
27 to or play by persons who are under 18 years of age or who are

1 visibly intoxicated;

2 (7) refuse to accept a credit card payment from a  
3 player for the exchange or purchase of video lottery game credits or  
4 for an advance of coins, currency, vouchers, or tokens to be used by  
5 a player to play video lottery games, refuse to extend credit, in  
6 any manner, to a player that enables the player to play a video  
7 lottery game, and ensure that all persons doing business at the  
8 video lottery terminal establishment, including a person operating  
9 or managing an auxiliary service such as a restaurant, refuse to  
10 accept a credit card payment or to extend credit to a person to play  
11 video lottery games except that:

12 (A) a license holder may cash a check for a player  
13 if the license holder exercises reasonable caution cashing the  
14 check and does not cash checks for any player in an excessive amount  
15 not to exceed \$1,000 in any 24-hour period; and

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

20 (8) pay all credits won by a player on presentment of a  
21 valid winning video lottery game ticket;

22 (9) conduct only the video lottery game advertising  
23 and promotional activities consistent with criteria prescribed by  
24 the commission, including prohibiting undue influence, offensive  
25 language, and anything that would affect the integrity of video  
26 lottery operation;

27 (10) install, post, and display prominently at the

1 licensed location redemption information and other informational  
2 or promotional materials as required by the commission;

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

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

8 (13) annually submit an audited financial statement to  
9 the commission in accordance with generally accepted accounting  
10 principles.

11 Sec. 466.5041. TECHNICAL STANDARDS FOR VIDEO LOTTERY  
12 EQUIPMENT. The commission by rule shall provide minimum technical  
13 standards for video lottery equipment that may be operated in this  
14 state.

15 Sec. 466.5042. INCIDENT REPORTS. A video lottery retailer  
16 or video lottery manager shall record all unusual occurrences  
17 related to gaming activity in a video lottery terminal  
18 establishment operated by the retailer or manager. Each material  
19 incident shall be assigned a sequential number and, at a minimum,  
20 the following information must be recorded in a permanent record  
21 prepared in accordance with commission rules to ensure the  
22 integrity of the record:

23 (1) the number assigned to the incident;

24 (2) the date and time of the incident;

25 (3) the nature of the incident;

26 (4) each person involved in the incident; and

27 (5) the name of the employee or other agent of the

1 video lottery retailer or video lottery manager who investigated  
2 the incident.

3 Sec. 466.5043. EXCLUSION OF PERSONS. (a) The commission  
4 shall compile a list of persons that the video lottery retailer or  
5 video lottery manager must bar from a video lottery terminal  
6 establishment based on a person's criminal history or association  
7 with criminal offenders or because the person poses a threat to the  
8 integrity of the lottery. The video lottery retailer or video  
9 lottery manager shall employ the retailer's or manager's best  
10 efforts to exclude such persons from entry into the establishment.  
11 The video lottery retailer or video lottery manager may exclude a  
12 person for any reason not related to the person's race, sex,  
13 national origin, physical disability, or religion.

14 (b) A person who believes the person may be playing video  
15 lottery games on a compulsive basis may request that the person's  
16 name be placed on the list compiled by the commission under  
17 Subsection (a). All video lottery game employees shall receive  
18 training in identifying players with a compulsive playing problem.  
19 Signs and other materials shall be readily available to direct  
20 compulsive players to agencies that offer appropriate counseling.

21 Sec. 466.505. ACCOUNTING, FINANCIAL, AND OTHER REPORTING  
22 PROCEDURES. (a) Not later than the fifth day after acquiring  
23 knowledge of any litigation relating to a video lottery terminal  
24 establishment, including a criminal proceeding, a proceeding  
25 involving an issue related to racing activities that impact video  
26 lottery operations, and a matter related to character or reputation  
27 relevant to a person's suitability under this subchapter, a video

1 lottery retailer or video lottery manager shall report the  
2 litigation to the commission.

3 (b) All internal procedures and administrative and  
4 accounting controls of a video lottery retailer or video lottery  
5 manager must be approved by the commission. The commission by rule  
6 shall establish general accounting and auditing requirements and  
7 internal control standards for video lottery retailers and video  
8 lottery managers.

9 (d) A video lottery retailer or video lottery manager shall  
10 keep a database of video lottery terminal events. The commission by  
11 rule shall determine what constitutes a video lottery terminal  
12 event for purposes of this subsection.

13 Sec. 466.5051. 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. The report must provide for each employee of the retailer  
18 or manager the employee's name, job title, date of birth, and social  
19 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 do any act  
3 prohibited by this chapter;

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

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 the  
11 employee is required to have commission approval after 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) willfully 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 any reason the  
2 commission finds appropriate, including a refusal by a regulatory  
3 authority to issue a license, permit, or other approval for the  
4 employee to engage in or be involved with the lottery or with  
5 regulated gaming or pari-mutuel wagering in any jurisdiction, and a  
6 revocation or suspension of any gaming or wagering license, permit,  
7 or approval.

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, or  
11 independent contractor for activities directly related to video  
12 lottery operations.

13 Sec. 466.5052. REPORT OF VIOLATIONS. A person who holds a  
14 license or registration under this subchapter shall immediately  
15 report a violation or suspected violation of this chapter or a rule  
16 adopted under this chapter by any license or registration holder,  
17 by an employee of a license or registration holder, or by any person  
18 on the premises of a video lottery terminal establishment, whether  
19 or not associated with the license or registration holder.

20 Sec. 466.506. SECURITY. (a) In addition to the security  
21 provisions applicable under Section 466.020, a video lottery  
22 retailer or video lottery manager shall comply with the following  
23 security procedures:

24 (1) all video lottery terminals must be continuously  
25 monitored through the use of a closed-circuit television system  
26 that records activity for a continuous 24-hour period and all video  
27 tapes or other media used to store video images shall be retained

1 for at least 30 days and made available to the commission on  
2 request;

3 (2) access to video lottery terminal locations shall  
4 be restricted to persons over the age of 18;

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

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

17 (b) An agent or employee of the commission, the Texas Racing  
18 Commission, or the Department of Public Safety or any law  
19 enforcement personnel may be present at a video lottery terminal  
20 establishment at any time.

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

25 Sec. 466.507. VIDEO LOTTERY TERMINAL ESTABLISHMENT VISITS.  
26 The commission, the commission's representative, the Texas Racing  
27 Commission, or a representative of the Texas Racing Commission,

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

8 [Sections 466.508-466.510 reserved for expansion]

9 Sec. 466.511. INDEMNIFICATION, INSURANCE, AND BONDING  
10 REQUIREMENTS; PATRON DISPUTES. (a) A license or registration  
11 holder shall indemnify and hold harmless this state, the  
12 commission, and all officers and employees of this state and the  
13 commission from any and all claims which may be asserted against a  
14 license holder, the commission, this state, and the members,  
15 officers, employees, and authorized agents of this state or the  
16 commission arising from the license holder's participation in the  
17 video lottery system authorized under this chapter.

18 (b) Surety and insurance required under this subchapter  
19 shall be issued by companies or financial institutions financially  
20 rated "A" or better as rated by A.M. Best Company or other rating  
21 organization designated by the commission and duly licensed,  
22 admitted, and authorized to do business in this state, or by other  
23 surety approved by the commission.

24 (c) The commission shall be named as the obligee in each  
25 required surety and as an additional insured in each required  
26 insurance contract.

27 (d) A video lottery retailer or video lottery manager may

1 not be self-insured with regard to video lottery terminal  
2 operations under this section.

3 (e) The commission by rule shall establish minimum  
4 insurance coverage requirements for video lottery retailers, video  
5 lottery managers, and video lottery terminal providers.

6 (f) This state and the commission are not liable for any  
7 video lottery terminal malfunction or error by a video lottery  
8 retailer, video lottery manager, or video lottery terminal provider  
9 that causes credit to be wrongfully awarded or denied to players.  
10 Any dispute arising between a player and a video lottery retailer or  
11 video lottery manager shall be resolved by the commission as  
12 follows:

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

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

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

25 Sec. 466.512. COLLECTION OF REVENUE; ACCOUNTING AND  
26 DISTRIBUTION OF NET TERMINAL INCOME. (a) The commission shall  
27 deposit funds received under this subchapter to the state video

1 lottery account. The state video lottery account is a special  
2 account in the general revenue fund. The account consists of all  
3 revenue received by this state from the operation of video lottery  
4 terminals.

5 (a-1) Except as provided by Subsection (b), all revenue  
6 received by this state from the operation of the video lottery  
7 system shall be distributed solely to reimburse the commission  
8 until the \$5 million authorized under this section is repaid to the  
9 state lottery account. From funds previously appropriated to the  
10 commission for the state fiscal biennium ending August 31, 2007,  
11 and notwithstanding Section 466.355(b), the commission is  
12 authorized to expend an amount not to exceed \$5 million from the  
13 state lottery account during that biennium to establish the video  
14 lottery system in accordance with this chapter. From revenue  
15 deposited in the state video lottery account during that biennium,  
16 the commission is hereby appropriated the amount necessary to  
17 reimburse the state lottery account for the total amount of funds  
18 expended to establish the video lottery system from the  
19 appropriation to the state lottery account, and the commission  
20 shall deposit that amount to the state lottery account. This  
21 subsection expires January 1, 2009.

22 (b) Two percent of the net terminal income distributed to  
23 this state under Subsection (c) shall be allocated to the  
24 commission to defray expenses incurred in administering this  
25 chapter related to video lottery including expenses incurred to  
26 operate the video lottery central system. All money allocated to  
27 the commission under this subsection may be retained by the

1 commission to defray expenses of administering this chapter related  
2 to video lottery and shall be deposited in the state video lottery  
3 account.

4 (c) Net terminal income derived from the operation of video  
5 lottery terminals operated at racetracks shall be distributed as  
6 follows:

7 (1) a portion of the net terminal income generated in  
8 each calendar year shall be remitted to this state by the video  
9 lottery retailer or video lottery manager in an amount equal to:

10 (A) 30 percent of the first \$50 million of the net  
11 terminal income for that year, except that until January 1, 2009,  
12 the video lottery retailer or video lottery manager shall remit 10  
13 percent of that portion of the first \$50 million of net terminal  
14 income that matches the fee paid by the video lottery retailer or  
15 video lottery manager under Section 466.5036;

16 (B) 35 percent of the net terminal income for  
17 that year that exceeds \$50 million but does not exceed \$100 million;

18 (C) 40 percent of the net terminal income for  
19 that year that exceeds \$100 million but does not exceed \$200  
20 million;

21 (D) 45 percent of the net terminal income for  
22 that year that exceeds \$200 million but does not exceed \$500  
23 million; and

24 (E) 50 percent of the net terminal income for  
25 that year that exceeds \$500 million; and

26 (2) the remainder shall be retained by the video  
27 lottery retailer or video lottery manager.

1       (c-1) Net terminal income derived from the operation of  
2 video lottery terminals on Indian lands under a gaming agreement  
3 authorized under this subchapter shall be distributed as set forth  
4 in the gaming agreement; provided that the agreement must provide  
5 that this state shall receive no more than 25 percent of the net  
6 terminal income.

7       (d) The commission shall require a video lottery retailer or  
8 video lottery manager to establish a separate electronic funds  
9 transfer account for depositing money from video lottery terminal  
10 operations, making payments to the commission or its designee, and  
11 receiving payments from the commission or its designee. A video  
12 lottery retailer or video lottery manager may not make payments to  
13 the commission in cash. As authorized by the commission, a video  
14 lottery retailer or video lottery manager may make payments to the  
15 commission by cashier's check.

16       (e) The commission at least weekly shall transfer this  
17 state's share of net terminal income of a video lottery retailer or  
18 video lottery manager to the commission through the electronic  
19 transfer of the funds. The commission by rule shall establish the  
20 procedures for depositing money from video lottery terminal  
21 operations into electronic funds transfer accounts, as well as  
22 procedures regarding the handling of money from video lottery  
23 terminal operations. This state's share of net terminal income  
24 from video lottery terminal operations shall be held in trust for  
25 the state.

26       (f) Unless otherwise directed by the commission, a video  
27 lottery retailer or a video lottery manager shall maintain in its

1 account this state's share of the net terminal income from the  
2 operation of video lottery terminals, to be electronically  
3 transferred by the commission on dates established by the  
4 commission. On a license holder's failure to maintain this  
5 balance, the commission may disable all of a license holder's video  
6 lottery terminals until full payment of all amounts due is made.  
7 Interest shall accrue on any unpaid balance at a rate consistent  
8 with the amount charged under Section 111.060, Tax Code. The  
9 interest shall begin to accrue on the date payment is due to the  
10 commission. In the commission's sole discretion, rather than  
11 disable a license holder's video lottery terminals, the commission  
12 may elect to impose a fine on a license holder in an amount  
13 determined by the commission not to exceed \$250,000 for each  
14 violation. If the license holder fails to remedy the violation,  
15 including payment of any amounts assessed by or due to this state,  
16 within ten days, the commission may disable the license holder's  
17 video lottery terminals or use any other means for collection as  
18 provided by the penalty chart established by the commission.

19 (g) The license holder is solely responsible for resolving  
20 any income discrepancies between actual money collected and the net  
21 terminal income reported by the video lottery central system.  
22 Unless an accounting discrepancy is resolved in favor of the video  
23 lottery retailer or video lottery manager, the commission may not  
24 make any credit adjustments. Any accounting discrepancies which  
25 cannot otherwise be resolved shall be resolved in favor of the  
26 commission.

27 (h) A video lottery retailer and video lottery manager shall

1 remit payment as directed by the commission if the electronic  
2 transfer of funds is not operational or the commission notifies the  
3 license holder that other remittance is required. The license  
4 holder shall report this state's share of net terminal income, and  
5 remit the amount generated from the terminals during the reporting  
6 period.

7 (i) The commission has the right to examine all accounts,  
8 bank accounts, financial statements, and records in a license  
9 holder's possession or control or in which the license holder has an  
10 interest and the license holder shall authorize and direct all  
11 third parties in possession or in control of the accounts or records  
12 to allow examination of any of those accounts or records by the  
13 commission.

14 (j) A video lottery retailer or video lottery manager shall  
15 furnish to the commission all information and bank authorizations  
16 required to facilitate the timely transfer of money to the  
17 commission. A video lottery retailer or video lottery manager must  
18 provide the commission advance notice of any proposed account  
19 changes in information and bank authorizations to assure the  
20 uninterrupted electronic transfer of funds. The commission is not  
21 responsible for any interruption or delays in the transfer of  
22 funds. The video lottery retailer or video lottery manager is  
23 responsible for any interruption or delay in the transfer of funds.

24 (k) One-quarter of one percent of the net terminal income  
25 received by this state under Subsections (c) and (c-1) shall be  
26 transferred to the Texas Commission on Alcohol and Drug Abuse for  
27 use in the compulsive gambling program under Section 461.018,

1 Health and Safety Code, if that program is in operation.

2 (l) One-quarter of one percent of the net terminal income  
3 received by this state under Subsections (c) and (c-1) shall be  
4 transferred to the Equine Research Program at the College of  
5 Veterinary Medicine at Texas A&M University for use in equine  
6 research under Subchapter F, Chapter 88, Education Code.

7 (m) The commission may increase the percentage of the annual  
8 net terminal income received by this state by an amount not to  
9 exceed three percent after January 1, 2009, and by an additional  
10 three percent after January 1, 2011, if a review of the audited  
11 financial statements of the video lottery retailers indicates that  
12 the financial condition and financial stability of the video  
13 lottery retailers will not be adversely affected by the increase.

14 Sec. 466.5121. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT  
15 RACETRACKS. (a) The pari-mutuel license holder that owns or  
16 operates a racetrack at which video lottery games are conducted  
17 under this subchapter and the state breed registry representing the  
18 breed conducting live racing at the racetrack may enter into a  
19 written agreement to allocate a percentage of net terminal revenue  
20 generated from the operation of video lottery terminals at the  
21 racetrack to be used for purses at that racetrack and to specify the  
22 time period for which the percentage shall be in effect. If the  
23 racetrack is a horse racetrack, the officially recognized  
24 horsemen's organization must also be a party to an agreement under  
25 this paragraph. If an agreement cannot be reached, any party to the  
26 agreement may submit the matter to the commission, sixty days after  
27 failure to reach agreement, for determination of the matter under a

1 procedure in accordance with rules issued by the commission.

2 (b) Under either an agreement or a commission  
3 determination, the percentage of net terminal revenue to be used  
4 for purses at the racetrack shall be not less than 6.5 percent, and  
5 an additional percentage shall be allocated if necessary, to ensure  
6 the purses at the racetrack are the highest in the industry for that  
7 type of racetrack, and the period of time for which the percentage  
8 shall be in effect shall be not less than two years.

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

12 (d) The commission shall adopt rules to administer this  
13 section. A matter considered by the commission under this section  
14 shall be a contested matter requiring a public hearing.

15 Sec. 466.5123. LIABILITY OF VIDEO LOTTERY RETAILER AND  
16 VIDEO LOTTERY MANAGER. A video lottery retailer, video lottery  
17 manager, or both, are jointly and severally liable to the  
18 commission for the state's share of net terminal income reported by  
19 the video lottery central system. Net terminal income received by  
20 the video lottery retailer or video lottery manager shall be held in  
21 trust for the benefit of this state before delivery of the state's  
22 share to the commission or electronic transfer to the state  
23 treasury, and the video lottery retailer or video lottery manager,  
24 or both, are jointly and severally liable to the commission for the  
25 full amount of the money held in trust. If the video lottery  
26 retailer or video lottery manager is not an individual, each  
27 officer, director, or owner of the video lottery retailer or video

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

5 Sec. 466.513. PRIZES. (a) Payment of prizes is the sole  
6 and exclusive responsibility of the video lottery retailer or video  
7 lottery manager. A prize may not be paid by the commission or this  
8 state except as otherwise authorized.

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

12 (c) A video lottery ticket is redeemable only for 180 days  
13 following the date of issuance. If a claim is not made for prize  
14 money on or before the 180th day after the date on which the video  
15 lottery ticket was issued, the prize money becomes the property of  
16 this state. The commission shall enact rules consistent with this  
17 section governing the use and redemption of prizes and credits  
18 recorded on electronic player account records, such as players'  
19 club cards and smart cards.

20 Sec. 466.514. REVOCATION OF LICENSE, REGISTRATION, OR OTHER  
21 REGULATORY APPROVAL. (a) The commission shall revoke or suspend a  
22 license, registration, or other regulatory approval issued under  
23 this subchapter if the license or registration holder or holder of  
24 the approval at any time fails to meet the eligibility requirements  
25 set forth in this subchapter.

26 (b) Failure to timely remit revenue generated by video  
27 lottery terminals to the commission or any tax or other fee owed to

1 this state as demonstrated by report from the applicable taxing  
2 authority or to timely file any report or information required  
3 under this subchapter as a condition of any license, registration,  
4 or other approval issued under this subchapter may be grounds for  
5 suspension or revocation, or both, of a license, registration, or  
6 other approval issued under this subchapter.

7 Sec. 466.5141. DEPRIVATION HEARING FOR REVOCATION OR  
8 SUSPENSION OF REGISTRATION OR LICENSE. (a) Before the commission  
9 revokes or suspends a video lottery terminal provider's  
10 registration or video lottery retailer's or video lottery manager's  
11 license, or imposes monetary penalties for a violation of this  
12 subchapter, the commission shall provide written notification to  
13 the license or registration holder of the revocation, the period of  
14 suspension, or the monetary penalty. The notice shall include:

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

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

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

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

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

27 (b) The notice required under Subsection (a) must be made by

1 personal delivery or by mail to the person's mailing address as it  
2 appears on the commission's records.

3 (c) To obtain an administrative hearing on a suspension,  
4 revocation, or penalty under this section, a person must submit a  
5 written request for a hearing to the commission not later than the  
6 20th day after the date notice is delivered personally or is mailed.  
7 If the commission receives a timely request under this subsection,  
8 the commission shall provide the person with an opportunity for a  
9 hearing as soon as practicable. If the commission does not receive  
10 a timely request under this subsection, the commission may impose  
11 the penalty, revoke or suspend a license or registration, or  
12 sustain the revocation or suspension without a hearing. Except as  
13 provided by Subsection (d) the hearing must be held not earlier than  
14 the 11th day after the date the written request is submitted to the  
15 commission.

16 (d) The commission may provide that a revocation or  
17 suspension takes effect on receipt of notice under Subsection (a)  
18 if the commission finds that the action is necessary to prevent or  
19 remedy a threat to public health, safety, or welfare. The  
20 commission by rule shall establish a nonexclusive list of  
21 violations that present a threat to the public health, safety, or  
22 welfare. A hearing on a revocation or suspension that takes effect  
23 on receipt of notice must be held not later than the 14th day after  
24 the date the commission receives the request for hearing under  
25 Subsection (c). The revocation or suspension continues in effect  
26 until the hearing is completed. If the hearing is continued, the  
27 revocation or suspension shall continue in effect beyond the 14-day

1 period at the request of the license or registration holder or on a  
2 finding of good cause by the commission or administrative law  
3 judge.

4 (e) To prevail in a post-deprivation administrative hearing  
5 under this section, the license or registration holder must  
6 demonstrate by clear and convincing evidence that the deprivation  
7 or imposition of a penalty was unwarranted or otherwise unlawful.  
8 The post-deprivation hearing may be conducted by the commission or  
9 referred to the State Office of Administrative Hearings. The  
10 administrative record created by the hearing conducted by the State  
11 Office of Administrative Hearings shall be provided to the  
12 commission for review and determination on the revocation or  
13 suspension. If an administrative law judge of the State Office of  
14 Administrative Hearings conducts a hearing under this section and  
15 the proposal for decision supports the commission's position, the  
16 administrative law judge shall include in the proposal a finding of  
17 the costs, fees, expenses, and reasonable and necessary attorney's  
18 fees the state incurred in bringing the proceeding. The commission  
19 may adopt the findings for costs, fees, and expenses and make the  
20 finding a part of the final order entered in the proceeding.  
21 Proceeds collected from a finding made under this subsection shall  
22 be paid to the commission.

23 (f) Any person aggrieved by a final decision of the  
24 commission to revoke or suspend a registration or license or to  
25 impose any monetary penalty may obtain judicial review before a  
26 district court in Travis County. The judicial review must be  
27 instituted by serving on the commission and filing a petition not

1 later than the 20th day after the effective date of the final  
2 decision and must identify the order appealed from and the grounds  
3 or reason why the petitioner contends the decision of the  
4 commission should be reversed or modified. The review must be  
5 conducted by the court sitting without jury, and must not be a trial  
6 de novo but is confined to the record on review. The reviewing  
7 court may only affirm the decision, remand the case for further  
8 proceedings, or reverse the decision if the substantial rights of  
9 the petitioner have been violated.

10 (g) A license or registration holder agrees that the  
11 privilege of holding a license or registration under this  
12 subchapter is conditioned on the holder's agreement to this  
13 section in its entirety and, thereby, waives any right to challenge  
14 or otherwise appeal the enforceability of this section.

15 Sec. 466.515. LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO  
16 LIABILITY OF STATE FOR ENFORCEMENT. (a) This state does not waive  
17 its sovereign immunity by negotiating gaming agreements with Indian  
18 tribes or other persons for the operation of video lottery  
19 terminals or other lottery games under this chapter. An actor or  
20 agent on behalf of this state does not have any authority to waive  
21 the state's sovereign immunity absent an express legislative grant  
22 of the authority. The only waiver of sovereign immunity relative to  
23 video lottery terminal operations is that expressly provided for in  
24 this section.

25 (b) With regard to video lottery terminal operations on  
26 Indian lands, this state consents to the jurisdiction of the  
27 District Court of the United States situs in the county where the

1 Indian lands are located solely for the purpose of resolving  
2 disputes arising from a gaming agreement authorized under this  
3 subchapter for declaratory or injunctive relief or contract damages  
4 of \$100,000 or more. Any disputes relating to damages or other  
5 awards valued at less than \$100,000 shall be arbitrated under the  
6 rules of the American Arbitration Association, provided, however,  
7 that application of the rules may not be construed as a waiver of  
8 sovereign immunity.

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

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

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

17 Sec. 466.516. ABSOLUTE PRIVILEGE OF REQUIRED  
18 COMMUNICATIONS AND DOCUMENTS. Any communication or document of a  
19 video lottery central system provider, video lottery terminal  
20 provider, video lottery retailer, or video lottery manager, an  
21 applicant, or a license or registration holder that is made or  
22 transmitted to the commission or any of its employees to comply with  
23 any law or the rules of the commission, comply with a subpoena  
24 issued by the commission, or assist the commission or its designee  
25 in the performance of their respective duties is absolutely  
26 privileged, does not impose liability for defamation, and is not a  
27 ground for recovery in any civil action. If the document or

1 communication contains any information which is privileged under  
2 state law, that privilege will not be waived or lost because the  
3 document or communication is disclosed to the commission or any of  
4 the commission's employees. The commission shall maintain all  
5 privileged information, documents, and communications in a secure  
6 place as determined in the commission's sole discretion accessible  
7 only to members of the commission and authorized commission  
8 employees.

9 Sec. 466.517. INTELLECTUAL PROPERTY RIGHTS OF COMMISSION.

10 The legislature finds and declares that the commission has the  
11 right to establish ownership of intellectual property rights for  
12 all lottery products, including video lottery terminals and related  
13 video lottery equipment.

14 Sec. 466.518. MODEL GAMING AGREEMENT. (a) Not later than  
15 the 30th day after the date the governor receives a request from the  
16 Ysleta del Sur Pueblo Indian tribe, the Alabama-Coushatta Indian  
17 tribe, or the Kickapoo Traditional Tribe of Texas, accompanied by  
18 or in the form of a duly enacted resolution of the tribe's governing  
19 body, to enter into a gaming agreement under this section, the  
20 governor shall execute, at his discretion as chief executive office  
21 of the state and on behalf of this state, a gaming agreement  
22 containing substantially the terms set forth in a model gaming  
23 agreement adopted by the attorney general and filed with the  
24 secretary of state. The attorney general shall adopt a model gaming  
25 agreement for purposes of this section, consistent with the  
26 applicable provisions of this chapter, and shall file the agreement  
27 with the secretary of state not later than July 1, 2005.

1       (b) An Indian tribe may operate video lottery games and  
2 video lottery terminals in accordance with a gaming agreement  
3 entered into under this section.

4       (c) The governor may not amend, alter or otherwise modify an  
5 agreement under this section until after the 10th anniversary of  
6 the signing by the governor of the original agreement.

7       Sec. 466.519. VIDEO LOTTERY GAMES BY INDIAN TRIBES  
8 AUTHORIZED. (a) Notwithstanding any other law, an Indian tribe may  
9 operate video lottery games and video lottery terminals as  
10 authorized by this subchapter pursuant to a compact with the  
11 governor.

12       (b) To operate video lottery games under this section, an  
13 Indian tribe must be an Indian tribe as listed by the United States  
14 secretary of the interior under 25 U.S.C. Section 479a-1 on or  
15 before January 1, 1998, and must on or before January 1, 1998, have  
16 had Indian lands within the boundaries of this state. At no time  
17 may there be more than three Indian tribes operating video lottery  
18 games on Indian lands in this state.

19       (c) An Indian tribe may operate video lottery games under  
20 this section only on or immediately adjacent to Indian lands placed  
21 into trust by the United States for the benefit of the Indian tribe  
22 on or before January 1, 1998 that was held and occupied by the  
23 Indian tribe on or before January 1, 1998.

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

1           (1) provide that the commissioner may inspect all  
2 public and nonpublic areas of the premises where the Indian tribe  
3 operates video lottery games or other gaming activity;

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

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

10          (c) An agreement entered into under this section with any  
11 federally recognized Indian Tribe, or affiliated entity, to permit  
12 the Tribe or entity to operate video lottery games must provide that  
13 the Tribe agrees to collect and remit to the comptroller all state  
14 sales and use taxes for all taxable goods and services sold on its  
15 Indian lands in the state and all state taxes on motor fuels,  
16 alcoholic beverages, cigarettes and tobacco products, and hotel  
17 occupancy sold on its Indian lands. In the case of a federally  
18 recognized Indian tribe, the requirement to collect and remit these  
19 state taxes does not apply to taxes on the sale, use or consumption  
20 of an item by a member of the Tribe. The agreement shall provide a  
21 method to secure payment of these taxes to the state.

22          (d) The comptroller may adopt rules to ensure that the  
23 exemption from the collection and remission of state taxes under  
24 this section applies solely to members of the Tribe owning the  
25 Tribal land in question.

26          SECTION 1.34. Section 467.001, Government Code, is amended  
27 by amending Subdivision (9) and adding Subdivision (12) to read as

1 follows:

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

4 (A) a person or a board member, officer, trustee,  
5 or general partner of a person that manufactures, distributes,  
6 sells, or produces lottery equipment, video lottery equipment,  
7 video lottery games, video lottery central systems, supplies,  
8 services, or advertising;

9 (B) an employee of a video lottery terminal  
10 provider, video lottery central system provider, or person that  
11 manufactures, distributes, sells, or produces lottery equipment,  
12 video lottery games, supplies, services, or advertising and that  
13 employee is directly involved in the manufacturing, distribution,  
14 selling, or production of lottery equipment, supplies, services, or  
15 advertising;

16 (C) a person or a board member, officer, trustee,  
17 or general partner of a person that has made a bid to operate the  
18 lottery in the preceding two years or that intends to make a bid to  
19 operate the lottery or an employee of the person if the employee is  
20 directly involved in making the bid; or

21 (D) a sales agent, video lottery retailer, video  
22 lottery manager, video lottery terminal provider, or video lottery  
23 central system provider.

24 (12) "Video lottery central system," "video lottery  
25 equipment," "video lottery game," "video lottery manager," "video  
26 lottery retailer," and "video lottery terminal provider" have the  
27 meanings assigned by Section 466.002.

1 SECTION 1.35. Section 467.027(a), Government Code, is  
2 amended to read as follows:

3 Sec. 467.027. COMPENSATION AND EXPENSES. (a) A commission  
4 member is ~~[not]~~ entitled to compensation for serving in the  
5 commission. The annual salary of the commission is set by the  
6 legislature.

7 SECTION 1.36. Section 467.031, Government Code, is amended  
8 to read as follows:

9 Sec. 467.031. DIVISIONS. The commission shall establish  
10 separate divisions to oversee bingo and the state lottery. The  
11 commission may create a division to oversee video lottery and  
12 delegate responsibilities in the administration of Chapter 466 to  
13 the executive director, the director of the appropriate division  
14 and the division's staff; provided, however, that the commission  
15 may not delegate the following actions:

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

18 (2) a final determination in any proceeding involving  
19 the suspension or revocation of a registration or license under  
20 Chapter 466;

21 (3) a final determination that Chapter 466 has been  
22 violated; or

23 (4) a final determination or imposition of an  
24 assessment of fines or penalties under a law administered by the  
25 commission.

26 SECTION 1.37. Section 467.035(a), Government Code, is  
27 amended to read as follows:

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

3 (1) a bingo commercial lessor, bingo distributor, or  
4 bingo manufacturer; or

5 (2) a lottery sales agency, ~~or~~ a lottery operator, a  
6 video lottery retailer, a video lottery manager, a video lottery  
7 terminal provider, a video lottery central system provider, or a  
8 manufacturer of video lottery games.

9 SECTION 1.38. Chapter 467.108, Government Code, is amended  
10 to read as follows:

11 Sec. 467.108. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE.

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

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

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

25 (3) ~~[for compensation,]~~ communicate on behalf of any  
26 person, either with or without compensation, directly with a member  
27 of the legislative branch to influence legislation of behalf of a

1 person that has any [~~a significant financial~~] interest in the  
2 lottery, before the fifth [~~second~~] anniversary of the date that the  
3 person's service in office or employment with the commission  
4 ceases.

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

8 SECTION 1.39. Section 411.108, Government Code, is amended  
9 by adding Subsection (d) to read as follows:

10 (d) The Texas Lottery Commission may obtain from the  
11 department, subject to an interagency agreement entered into under  
12 Section 466.020(d) or 466.206, criminal history record information  
13 maintained by the department that relates to any natural person,  
14 corporation, association, trust, partnership, limited partnership,  
15 joint venture, government, subsidiary, or other entity, regardless  
16 of its form, structure, or nature that the commission has the  
17 authority to investigate under Chapter 466 as related to the  
18 commission's operation and oversight of video lottery. Criminal  
19 history record information obtained by the commission under this  
20 subsection may be released or disclosed only as provided in  
21 Sections 466.022(d) and 466.206.

22 SECTION 1.40. Section 47.09, Penal Code, is amended by  
23 adding Subsection (c) to read as follows:

24 (c) Subsection (a)(3) applies to a person manufacturing,  
25 distributing, possessing, or operating a gambling device with the  
26 authorization of the Texas Lottery Commission under Subchapter K,  
27 Chapter 466, Government Code.

1 SECTION 1.41. Chapter 47, Penal Code, is amended by adding  
2 Section 47.095 to read as follows:

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

9 SECTION 1.42. Section 47.01(4), Penal Code, is amended to  
10 read as follows:

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

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

26 (B) does not include any electronic,  
27 electromechanical, or mechanical contrivance designed, made, and

1 adapted solely for bona fide amusement purposes if the contrivance  
2 rewards the player exclusively with noncash merchandise prizes,  
3 toys, or novelties, or a representation of value redeemable for  
4 those items, that have a wholesale value available from a single  
5 play of the game or device of not more than 10 times the amount  
6 charged to play the game or device once or \$5, whichever is less.

7 (C) does not include equipment, machines,  
8 technological aids, or other devices allowed in connection with the  
9 video lottery terminals authorized under Chapter 466, Government  
10 Code.

11 SECTION 1.43. Article 6, Texas Racing Act (Article 179e,  
12 Vernon's Texas Civil Statutes), is amended by adding Sections  
13 6.20-6.23 to read as follows:

14 Sec. 6.20. LIVE RACING REQUIREMENT. (a) The commission by  
15 rule shall require a racetrack that is a video lottery terminal  
16 establishment and that conducted live racing in 2002 to conduct at  
17 least the same number of live racing days in each calendar year  
18 after 2005 that the track conducted in 2002.

19 Sec. 6.21. TRANSFER FEE. The commission shall not approve  
20 the sale, transfer, assignment or other conveyance of any interest  
21 or control in a pari-mutuel license or the racetrack owned or  
22 managed by the license holder if the license holder also holds a  
23 video lottery retailer license until the transfer fee to the state  
24 required by Sec. 466.50342, Government Code, is fully paid.

25 Sec. 6.22. BREED SPLITS AT VIDEO LOTTERY TERMINAL  
26 ESTABLISHMENTS. The commission shall require each horse racetrack  
27 that holds a video lottery retailer license to allocate 30 percent

1 of the amount in Section 466.5121, Government Code, set aside for  
2 purses to quarter horse purses and 70 percent to thoroughbred  
3 purses.

4 SECTION 1.44. The Legislature finds and declares the  
5 following:

6 (1) Contingent on the approval of the voters, a  
7 limited and narrow exception to the constitutional prohibition on  
8 lotteries has been proposed to authorize a state-controlled and  
9 state-operated video lottery system in accordance with this Act.

10 (2) In light of the financial emergency faced by the  
11 state in the event the voters approve this limited state-controlled  
12 and state-operated video lottery system, the Texas Lottery  
13 Commission must be authorized to commence operation of the video  
14 lottery system in accordance with this Act at the earliest possible  
15 date, consistent with the intent of the voters and legislative  
16 directive.

17 (3) The implementation of the video lottery system  
18 will require significant time for application investigations and  
19 determinations and for video lottery terminal and video lottery  
20 central system providers and manufacturers of video lottery games  
21 to develop prototypes for testing for the video lottery central  
22 system and video lottery terminals and games.

23 (4) The state's budget crisis constitutes an imminent  
24 peril to the public welfare, requiring the adoption of rules and  
25 authorization for the Texas Lottery Commission to conduct certain  
26 limited pre-implementation activities related to the establishment  
27 of the video lottery system to promote and ensure the integrity,

1 security, honesty, and fairness of the operation and administration  
2 of the video lottery system.

3 (5) In order to commence operation of the video  
4 lottery system at the earliest possible date and to maintain the  
5 integrity of state-controlled and state-operated video lottery  
6 established by this Act, the Texas Lottery Commission may conduct  
7 limited pre-implementation acts before the Constitutional  
8 amendment proposed by the 79th Legislature, Regular Session, 2005,  
9 to authorize the state video lottery system is submitted to the  
10 voters for approval.

11 SECTION 1.45. (a) As soon as practicable after the  
12 Constitutional amendment to authorize the state video lottery  
13 system proposed by the 79th Legislature, Regular Session, 2005, is  
14 approved by the voters, the Texas Lottery Commission shall adopt  
15 the rules necessary to implement video lottery in accordance with  
16 Subchapter K, Chapter 466, Government Code, as added by this Act.

17 (b) Before the proposed Constitutional amendment to  
18 legalize the state video lottery system is submitted to the voters,  
19 the Texas Lottery Commission may expend money from the commission's  
20 appropriation for the 2005-2006 biennium for purposes of conducting  
21 pre-implementation activities to establish the state video lottery  
22 system in accordance with Subchapter K, Chapter 466, Government  
23 Code, as added by this Act. Notwithstanding Section 466.355,  
24 Government Code, the money authorized to be expended under this  
25 section may be withdrawn from the state lottery account and  
26 considered a part of the transfer of funds from the state lottery  
27 account authorized under Section 466.512, Government Code, as added

1 by this Act, to fund the establishment of the state video lottery  
2 system.

3 (c) Before the proposed Constitutional amendment to  
4 authorize the state video lottery system is submitted to the  
5 voters, the Texas Lottery Commission may develop and approve forms  
6 for applications for licensing and registration required under  
7 Subchapter K, Chapter 466, Government Code, as added by this Act.

8 (c-1) Not later than July 1, 2005, and before the proposed  
9 Constitutional amendment to authorize the state video lottery  
10 system is submitted to the voters, the attorney general shall file a  
11 model gaming agreement with the secretary of state.

12 (d) Before the proposed Constitutional amendment to  
13 authorize the state video lottery system is submitted to the  
14 voters, the Texas Lottery Commission may accept pre-implementation  
15 applications for video lottery retailers and video lottery managers  
16 under Subchapter K, Chapter 466, Government Code, as added by this  
17 Act. On receipt of a complete application, completion of all  
18 investigations, and submittal of the nonrefundable investigatory  
19 fees the commission requires consistent with Subchapter K, Chapter  
20 466, Government Code, as added by this Act, the commission may make  
21 preliminary findings of suitability for an applicant and location  
22 of a video lottery terminal establishment. If the commission  
23 determines that all the requirements under Subchapter K, Chapter  
24 466, Government Code, have been satisfied, the commission may issue  
25 a letter advising the applicant of the status of approval of the  
26 application pending approval by the voters of the proposed  
27 Constitutional amendment to authorize the state video lottery

1 system. If the commission determines that any requirements under  
2 Subchapter K, Chapter 466, Government Code, have not been  
3 satisfied, the commission may request additional information or  
4 conduct further investigations the commission considers necessary  
5 and may issue a letter advising the applicant of the status of the  
6 application.

7 (e) Before the proposed Constitutional amendment to  
8 authorize the state video lottery system is submitted to the  
9 voters, the Texas Lottery Commission may request and receive  
10 information related to applications for licensing and registration  
11 under Subchapter K, Chapter 466, Government Code, as added by this  
12 Act. An applicant's failure to comply with any requests made by the  
13 Texas Lottery Commission under this subsection may be considered  
14 grounds for denial of an application.

15 (f) The Texas Lottery Commission may not issue any license,  
16 registration, or temporary license related to the state video  
17 lottery system under Subchapter K, Chapter 466, Government Code, as  
18 added by this Act, unless and until the Constitutional amendment  
19 authorizing the state video lottery system is approved by the  
20 voters and becomes effective.

21 (g) Before the proposed Constitutional amendment to  
22 authorize the state video lottery system is submitted to the  
23 voters, the Texas Lottery Commission may conduct investigations and  
24 collect investigative fees related to information requested and  
25 received for pre-implementation applications under this section  
26 and necessary for the commission's evaluation and determination of  
27 an application for any licensing, registration, or commission

1 approval required under Subchapter K, Chapter 466, Government Code,  
2 as added by this Act.

3 (h) Before the proposed Constitutional amendment to  
4 authorize the state video lottery system is submitted to the  
5 voters, the Texas Lottery Commission may conduct preregistration of  
6 potential video lottery terminal providers. To qualify for  
7 preregistration under this subsection, an applicant must satisfy  
8 the minimum application requirements under Section 466.5033,  
9 Government Code, as added by this Act, except that the application  
10 fee required under Section 466.5033(i), Government Code, as added  
11 by this Act, is not due until the applicant files an application for  
12 registration under Subchapter K, Chapter 466, Government Code, as  
13 added by this Act. A preregistration application must be  
14 accompanied by a nonrefundable deposit to the Texas Lottery  
15 Commission in the amount of \$25,000. A preregistration applicant  
16 shall submit additional money not later than the 10th day after the  
17 date the applicant receives notice from the commission that it has  
18 incurred actual costs for the preregistration investigation in  
19 excess of the initial deposit required under this subsection. If  
20 the commission does not receive the additional money from the  
21 applicant on or before the 15th day after the date the applicant  
22 receives the commission's notice, the commission shall suspend the  
23 application until the money is received by the commission. Any  
24 deposit or other nonrefundable money provided under this subsection  
25 shall be credited toward an application fee required under Section  
26 466.5033(i), Government Code, as added by this Act.

27 (i) The Texas Lottery Commission may not register any video

1 lottery terminal providers unless and until the Constitutional  
2 amendment authorizing the state video lottery system is approved by  
3 the voters and becomes effective.

4 (j) Notwithstanding Section 466.5033, Government Code, as  
5 added by this Act, a video lottery terminal provider that has been  
6 preregistered by the Texas Lottery Commission in accordance with  
7 this section, a video lottery central system provider, or a  
8 manufacturer of video lottery games, under a contract with the  
9 commission, may manufacture and test prototypes of or existing  
10 video lottery equipment for a video lottery central system, video  
11 lottery terminals, and video lottery games for the commission's  
12 consideration.

13 (k) Before the proposed Constitutional amendment to  
14 authorize the state video lottery system is submitted to the  
15 voters, the Texas Lottery Commission may negotiate contracts with  
16 preregistered video lottery terminal providers. The commission may  
17 enter into contracts with preregistered video lottery terminal  
18 providers, video lottery central system providers, and  
19 manufacturers of video lottery games as required for the creation  
20 and testing of a video lottery central system, video lottery  
21 terminals, and video lottery games for the commission's  
22 consideration.

23 (l) Before the proposed Constitutional amendment to  
24 authorize the state video lottery system is submitted to the  
25 voters, the Texas Lottery Commission may negotiate and enter  
26 contracts as necessary to establish the video lottery system. The  
27 commission is exempt from the procurement procedures prescribed

1 under Subtitle D, Title 10, Government Code; Section 466.101,  
2 Government Code; Chapter 2161, Government Code; and any and all  
3 bidding requirements or contract requirements provided by any other  
4 law or by rules of the commission for the acquisition or provision  
5 of facilities, supplies, equipment, materials, or services related  
6 to the implementation of video lottery under this section.

7 (m) Before the proposed Constitutional amendment to  
8 authorize the state video lottery system is submitted to the  
9 voters, the Texas Lottery Commission may employ additional  
10 full-time equivalent employees to administer this Act and establish  
11 the video lottery system.

12 SECTION 1.46. Sections 1.01 through 1.42 of this article  
13 take effect on the date the amendment to Section 47, Article III,  
14 Texas Constitution, authorizing a state video lottery system  
15 proposed by the 79th Legislature, Regular Session, 2005, becomes  
16 effective. Sections 1.43 and 1.44 of this article and this section  
17 take effect immediately if this Act receives a vote of two-thirds of  
18 all the members elected to each house, as provided by Section 39,  
19 Article III, Texas Constitution. If this Act does not receive the  
20 vote necessary for immediate effect, Sections 1.43 and 1.44 of this  
21 article and this section take effect on the 91st day after the last  
22 day of the legislative session. Sections 1.43 and 1.44(m) of this  
23 article expire on the 91st day after the date the constitutional  
24 amendment to Section 47, Article III, Texas Constitution,  
25 authorizing a state video lottery system, becomes effective.