

1-1 By: Jackson S.B. No. 405  
1-2 (In the Senate - Filed February 11, 2005; February 15, 2005,  
1-3 read first time and referred to Committee on Government  
1-4 Organization; April 18, 2005, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 April 18, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 405 By: Nelson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the continuation and functions of the Texas Lottery  
1-11 Commission.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 466.014, Government Code, is amended by  
1-14 adding Subsection (d) to read as follows:

1-15 (d) A contract between the division and a lottery operator  
1-16 under Subsection (b) must contain a provision allowing the contract  
1-17 to be terminated without penalty if the division is abolished.

1-18 SECTION 2. Subchapter B, Chapter 466, Government Code, is  
1-19 amended by adding Section 466.027 to read as follows:

1-20 Sec. 466.027. COMPREHENSIVE BUSINESS PLAN. (a) The  
1-21 commission shall develop a comprehensive business plan to guide the  
1-22 commission's major initiatives. The plan at a minimum must  
1-23 include:

1-24 (1) a description of each commission program and  
1-25 project;

1-26 (2) key management information;

1-27 (3) accurate financial data; and

1-28 (4) a detailed financial management plan.

1-29 (b) The commission at least annually shall review the  
1-30 comprehensive business plan to assess the overall performance and  
1-31 value of each program and project.

1-32 SECTION 3. Subchapter C, Chapter 466, Government Code, is  
1-33 amended by adding Section 466.1005 to read as follows:

1-34 Sec. 466.1005. PROCUREMENTS. (a) The commission may  
1-35 purchase or lease facilities, goods, and services and make any  
1-36 purchases, leases, or contracts necessary for carrying out the  
1-37 purposes of this chapter.

1-38 (b) The commission shall review and must approve all major  
1-39 procurements as provided by commission rule. The commission by  
1-40 rule shall establish a procedure to determine what constitutes a  
1-41 major procurement based on the cumulative value of a contract and  
1-42 other relevant factors.

1-43 (c) The commission may delegate to the executive director  
1-44 the authority to approve procurements other than major  
1-45 procurements.

1-46 SECTION 4. Sections 466.101(a) and (b), Government Code,  
1-47 are amended to read as follows:

1-48 (a) The commission and executive director may establish  
1-49 procedures for the purchase or lease of facilities, goods, and  
1-50 services and make any purchases, leases, or contracts that are  
1-51 necessary for carrying out the purposes of this chapter. The  
1-52 procedures must, as determined feasible and appropriate by the  
1-53 commission and executive director, promote competition to the  
1-54 maximum extent possible.

1-55 (b) In all procurement decisions, the commission and  
1-56 executive director shall take into account the particularly  
1-57 sensitive nature of the lottery and shall act to promote and ensure  
1-58 integrity, security, honesty, and fairness in the operation and  
1-59 administration of the lottery and the objective of producing  
1-60 revenues for the state treasury.

1-61 SECTION 5. Section 466.151, Government Code, is amended by  
1-62 amending Subsection (d) and adding Subsections (f) and (g) to read  
1-63 as follows:

2-1 (d) The director may license as a sales agent each person  
 2-2 the director believes will best serve the public convenience. The  
 2-3 director may not issue a license to a person to engage in business  
 2-4 exclusively as a sales agent. A license may not be transferred or  
 2-5 assigned to any other person [~~or location~~].

2-6 (f) On application by a license holder, the commission may  
 2-7 amend a license to change the location of a sales agency if:

2-8 (1) the proposed location complies with the provisions  
 2-9 of this chapter governing the location of a sales agency; and

2-10 (2) the license holder certifies to the director that  
 2-11 the proposed location complies with the Americans with Disabilities  
 2-12 Act of 1990 (42 U.S.C. Section 12101 et seq.).

2-13 (g) An application for a license amendment under Subsection  
 2-14 (f) must:

2-15 (1) be on the form prescribed by the division for that  
 2-16 purpose; and

2-17 (2) be accompanied by a fee in an amount determined by  
 2-18 the director to be at least sufficient to cover the costs incurred  
 2-19 by the division in processing the license amendment.

2-20 SECTION 6. Subchapter D, Chapter 466, Government Code, is  
 2-21 amended by adding Section 466.1585 to read as follows:

2-22 Sec. 466.1585. RENEWAL OF EXPIRED LICENSE. (a)  
 2-23 Notwithstanding Section 466.158, a person whose license has been  
 2-24 expired for 10 days or less may renew the license if otherwise  
 2-25 eligible for renewal by paying to the commission the required  
 2-26 renewal fee and an additional fee equal to one-half of the amount of  
 2-27 the renewal fee.

2-28 (b) A person whose license has been expired for more than 10  
 2-29 days may not renew the license. The person may obtain a new license  
 2-30 by complying with the requirements and procedures for obtaining an  
 2-31 original license under this subchapter.

2-32 SECTION 7. Section 466.160(a), Government Code, is amended  
 2-33 to read as follows:

2-34 (a) The commission may suspend a sales agent's license  
 2-35 summarily without notice or hearing if the commission finds that  
 2-36 the action is necessary to maintain the integrity, security,  
 2-37 honesty, or fairness of the operation or administration of the  
 2-38 lottery or to prevent financial loss to the state and:

2-39 (1) the sales agent fails to deposit money received  
 2-40 from ticket sales under Section 466.351;

2-41 (2) an event occurs that would render the sales agent  
 2-42 ineligible for a license under Section 466.155;

2-43 (3) the sales agent refuses to permit the executive  
 2-44 director, the director, the commission, or the state auditor to  
 2-45 examine the agent's books, records, papers, or other objects under  
 2-46 Section 466.017(b); [~~or~~]

2-47 (4) the executive director learns the sales agent has  
 2-48 failed to disclose information that would, if disclosed, render the  
 2-49 sales agent ineligible for a license under Section 466.155;

2-50 (5) the sales agent fails on request to provide a  
 2-51 complete legible set of fingerprints of a person required to be  
 2-52 named in a license application; or

2-53 (6) the sales agent fails on request to provide  
 2-54 information to verify the identity of a person required to be named  
 2-55 in a license application.

2-56 SECTION 8. Section 466.202(b), Government Code, is amended  
 2-57 to read as follows:

2-58 (b) The [~~executive~~] director may deny an application for a  
 2-59 license or the commission may summarily suspend, suspend, or revoke  
 2-60 a license if the applicant or sales agent fails on request to  
 2-61 provide:

2-62 (1) a complete legible set of fingerprints of a person  
 2-63 required to be named in a license application; or

2-64 (2) information to verify the identity of a person  
 2-65 required to be named in a license application.

2-66 SECTION 9. Subchapter F, Chapter 466, Government Code, is  
 2-67 amended by adding Section 466.257 to read as follows:

2-68 Sec. 466.257. STATE REVENUE AS PERCENTAGE OF AMOUNT  
 2-69 WAGERED. Any game of chance operated under the auspices of the

3-1 commission must generate as revenue to the state an amount that is  
 3-2 not less than 25 percent of the total amount wagered. This section  
 3-3 does not apply to bingo as defined under Section 2001.002,  
 3-4 Occupations Code.

3-5 SECTION 10. Section 466.353, Government Code, is amended by  
 3-6 adding Subsection (c) to read as follows:

3-7 (c) An individual who ceases to be an officer, director, or  
 3-8 owner of a sales agent shall promptly notify the director of that  
 3-9 fact. Failure to provide the notice does not relieve the individual  
 3-10 from personal liability under Subsection (b), even if the  
 3-11 individual is no longer an officer, director, or owner at the time  
 3-12 the liability to the sales agent accrues.

3-13 SECTION 11. Section 466.405(e), Government Code, is amended  
 3-14 to read as follows:

3-15 (e) In this section:

3-16 (1) "Bank," [,"adult," "bank,"] "custodian," and  
 3-17 "guardian" ["guardian," "member of a minor's family," and "minor"]  
 3-18 have the meanings assigned by Section 141.002, Property Code.

3-19 (2) "Member of a minor's family" means the minor's  
 3-20 parent, stepparent, spouse, grandparent, brother, sister, uncle,  
 3-21 or aunt, whether of whole or half blood or by adoption.

3-22 (3) "Minor" means an individual who is younger than 18  
 3-23 years of age.

3-24 SECTION 12. Section 467.002, Government Code, is amended to  
 3-25 read as follows:

3-26 Sec. 467.002. APPLICATION OF SUNSET ACT. The commission is  
 3-27 subject to Chapter 325 (Texas Sunset Act). Unless continued in  
 3-28 existence as provided by that chapter, the commission is abolished  
 3-29 and this chapter, Chapter 466, and Chapter 2001, Occupations Code,  
 3-30 expire [Act expires] September 1, 2017 [2005. In the review of the  
 3-31 commission by the Sunset Advisory Commission, as required by this  
 3-32 section, the sunset commission shall limit its review to the  
 3-33 appropriateness of recommendations made by the sunset commission to  
 3-34 the 78th Legislature. In the Sunset Advisory Commission's report  
 3-35 to the 79th Legislature, the sunset commission may include any  
 3-36 recommendations it considers appropriate].

3-37 SECTION 13. Sections 467.021(a) and (b), Government Code,  
 3-38 are amended to read as follows:

3-39 (a) The commission is composed of five [three] members  
 3-40 appointed by the governor with the advice and consent of the senate.

3-41 (b) Appointments [In making appointments] to the commission  
 3-42 shall be made without [,"the governor shall strive to achieve  
 3-43 representation by all the population groups of the state with]  
 3-44 regard to the [economic status, sex,] race, color, disability, sex,  
 3-45 religion, age, or national origin of the appointees [and  
 3-46 ethnicity].

3-47 SECTION 14. Section 467.022, Government Code, is amended to  
 3-48 read as follows:

3-49 Sec. 467.022. TERM OF OFFICE. Members hold office for  
 3-50 staggered terms of six years, with the terms of either one or two  
 3-51 members [member's term] expiring February 1 of each odd-numbered  
 3-52 year.

3-53 SECTION 15. Section 467.024, Government Code, is amended by  
 3-54 adding Subsections (c) and (d) to read as follows:

3-55 (c) A person may not be a commission employee employed in a  
 3-56 "bona fide executive, administrative, or professional capacity,"  
 3-57 as that phrase is used for purposes of establishing an exemption to  
 3-58 the overtime provisions of the federal Fair Labor Standards Act of  
 3-59 1938 (29 U.S.C. Section 201 et seq.), if:

3-60 (1) the person is an officer, employee, or paid  
 3-61 consultant of a Texas trade association in the field of bingo or  
 3-62 lottery; or

3-63 (2) the person's spouse is an officer, manager, or paid  
 3-64 consultant of a Texas trade association in the field of bingo or  
 3-65 lottery.

3-66 (d) A person may not act as the general counsel to the  
 3-67 commission if the person is required to register as a lobbyist under  
 3-68 Chapter 305 because of the person's activities for compensation on  
 3-69 behalf of a profession related to the operation of the commission.

4-1 SECTION 16. Subchapter B, Chapter 467, Government Code, is  
 4-2 amended by adding Section 467.0255 to read as follows:

4-3 Sec. 467.0255. TRAINING. (a) A person who is appointed to  
 4-4 and qualifies for office as a member of the commission may not vote,  
 4-5 deliberate, or be counted as a member in attendance at a meeting of  
 4-6 the commission until the person completes a training program that  
 4-7 complies with this section.

4-8 (b) The training program must provide the person with  
 4-9 information regarding:

4-10 (1) the legislation that created the commission and  
 4-11 the commission's programs, functions, rules, and budget;

4-12 (2) the results of the most recent formal audit of the  
 4-13 commission;

4-14 (3) the requirements of laws relating to open  
 4-15 meetings, public information, administrative procedure, and  
 4-16 conflicts of interest; and

4-17 (4) any applicable ethics policies adopted by the  
 4-18 commission or the Texas Ethics Commission.

4-19 (c) A person appointed to the commission is entitled to  
 4-20 reimbursement, as provided by the General Appropriations Act, for  
 4-21 travel expenses incurred in attending the training program  
 4-22 regardless of whether the attendance at the program occurs before  
 4-23 or after the person qualifies for office.

4-24 SECTION 17. Sections 467.026(a) and (c), Government Code,  
 4-25 are amended to read as follows:

4-26 (a) It is a ground for removal from the [The governor may  
 4-27 remove a] commission that a member [if the member]:

4-28 (1) does not have at the time of taking office  
 4-29 [appointment] the qualifications required by Sections 467.023 and  
 4-30 467.024 [for appointment to the commission];

4-31 (2) does not maintain during service on the commission  
 4-32 the qualifications required by Sections 467.023 and 467.024 [for  
 4-33 appointment to the commission];

4-34 (3) is ineligible for membership under [violates a  
 4-35 prohibition established by] Section 467.023, 467.024, or 467.025;

4-36 (4) cannot, because of illness or disability,  
 4-37 discharge the member's duties for a substantial part of the member's  
 4-38 term [for which the member is appointed because of illness or  
 4-39 disability]; or

4-40 (5) is absent from more than half of the regularly  
 4-41 scheduled commission meetings that the member is eligible to attend  
 4-42 during a calendar year without an excuse approved [unless the  
 4-43 absence is excused] by majority vote of the commission.

4-44 (c) If the executive director [presiding officer] has  
 4-45 knowledge that a potential ground for removal exists, the executive  
 4-46 director [presiding officer] shall notify the presiding officer of  
 4-47 the commission of the potential ground. The presiding officer  
 4-48 shall then notify the governor and the attorney general that a  
 4-49 potential ground for removal exists. If the potential ground for  
 4-50 removal involves the presiding officer, the executive director  
 4-51 shall notify the next highest ranking officer of the commission,  
 4-52 who shall then notify the governor and the attorney general that a  
 4-53 potential ground for removal exists.

4-54 SECTION 18. Section 467.032(a), Government Code, is amended  
 4-55 to read as follows:

4-56 (a) The commission shall employ an executive director to  
 4-57 administer this chapter and Chapter 466.

4-58 SECTION 19. Subchapter B, Chapter 467, Government Code, is  
 4-59 amended by adding Section 467.0325 to read as follows:

4-60 Sec. 467.0325. BINGO OPERATIONS DIRECTOR. (a) The  
 4-61 commission shall employ a director of bingo operations to  
 4-62 administer this chapter in connection with the bingo division and  
 4-63 Chapter 2001, Occupations Code.

4-64 (b) The bingo operations director may contract with or  
 4-65 employ a person to perform a function, activity, or service in  
 4-66 connection with the administration and regulation of bingo.

4-67 (c) The bingo operations director serves at the will of the  
 4-68 commission.

4-69 SECTION 20. Section 467.033, Government Code, is amended to

5-1 read as follows:

5-2 Sec. 467.033. DIVISION DIRECTORS. The executive director  
5-3 shall employ a director to oversee each division other than the  
5-4 bingo division. A division director employed under this section  
5-5 serves at the will of the executive director and is specifically  
5-6 exempted from Chapter 654.

5-7 SECTION 21. Section 467.034, Government Code, is amended to  
5-8 read as follows:

5-9 Sec. 467.034. EMPLOYEES. (a) Except as provided by  
5-10 Subsection (b), the [The] executive director shall employ other  
5-11 personnel necessary to administer the laws under the commission's  
5-12 jurisdiction. Commission employees serve at the will of the  
5-13 executive director.

5-14 (b) The bingo operations director shall employ personnel to  
5-15 administer Chapter 2001, Occupations Code. Bingo division  
5-16 personnel serve at the will of the bingo operations director.

5-17 (c) The executive director shall employ the personnel who  
5-18 perform services for both the lottery division and the bingo  
5-19 division, and those employees serve at the will of the executive  
5-20 director.

5-21 SECTION 22. Section 467.035, Government Code, is amended by  
5-22 adding Subsection (b-1) to read as follows:

5-23 (b-1) The commission may not employ or continue to employ a  
5-24 person who would be denied a license as a sales agent under Section  
5-25 466.155.

5-26 SECTION 23. Subchapter B, Chapter 467, Government Code, is  
5-27 amended by adding Section 467.037 to read as follows:

5-28 Sec. 467.037. DIVISION OF RESPONSIBILITIES. The commission  
5-29 shall develop and implement policies that clearly separate the  
5-30 policy-making responsibilities of the commission and the  
5-31 management responsibilities of the executive director and the staff  
5-32 of the commission.

5-33 SECTION 24. The heading to Section 467.103, Government  
5-34 Code, is amended to read as follows:

5-35 Sec. 467.103. DUTIES OF EXECUTIVE DIRECTOR AND BINGO  
5-36 OPERATIONS DIRECTOR.

5-37 SECTION 25. Section 467.103(a), Government Code, is amended  
5-38 to read as follows:

5-39 (a) The executive director and the bingo operations  
5-40 director shall perform all duties required by the commission to  
5-41 administer this chapter and the laws under the commission's  
5-42 jurisdiction. The executive director and the bingo operations  
5-43 director may not hold other employment.

5-44 SECTION 26. Section 467.104(b), Government Code, is amended  
5-45 to read as follows:

5-46 (b) Except as provided by this subsection, the [The]  
5-47 executive director shall keep the records of the commission. The  
5-48 bingo operations director shall keep the records of the bingo  
5-49 division.

5-50 SECTION 27. Subchapter C, Chapter 467, Government Code, is  
5-51 amended by adding Sections 467.109 through 467.113 to read as follows:

5-52 Sec. 467.109. TECHNOLOGY POLICY. The commission shall  
5-53 implement a policy requiring the commission to use appropriate  
5-54 technological solutions to improve the commission's ability to  
5-55 perform its functions. The policy must ensure that the public is  
5-56 able to interact with the commission on the Internet.

5-57 Sec. 467.110. NEGOTIATED RULEMAKING AND ALTERNATIVE  
5-58 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and  
5-59 implement a policy to encourage the use of:

5-60 (1) negotiated rulemaking procedures under Chapter  
5-61 2008 for the adoption of commission rules; and

5-62 (2) appropriate alternative dispute resolution  
5-63 procedures under Chapter 2009 to assist in the resolution of  
5-64 internal and external disputes under the commission's  
5-65 jurisdiction.

5-66 (b) The commission's procedures relating to alternative  
5-67 dispute resolution must conform, to the extent possible, to any  
5-68 model guidelines issued by the State Office of Administrative  
5-69 Hearings for the use of alternative dispute resolution by state

6-1 agencies.

6-2 (c) The commission shall designate a trained person to:

6-3 (1) coordinate the implementation of the policy  
6-4 adopted under Subsection (a);

6-5 (2) serve as a resource for any training needed to  
6-6 implement the procedures for negotiated rulemaking or alternative  
6-7 dispute resolution; and

6-8 (3) collect data concerning the effectiveness of those  
6-9 procedures, as implemented by the commission.

6-10 Sec. 467.111. PUBLIC PARTICIPATION. The commission shall  
6-11 develop and implement policies that provide the public with a  
6-12 reasonable opportunity to appear before the commission and to speak  
6-13 on any issue under the jurisdiction of the commission.

6-14 Sec. 467.112. COMPLAINTS. (a) The commission shall  
6-15 maintain a system to promptly and efficiently act on complaints  
6-16 filed with the commission. The commission shall maintain  
6-17 information about parties to the complaint, the subject matter of  
6-18 the complaint, a summary of the results of the review or  
6-19 investigation of the complaint, and its disposition.

6-20 (b) The commission shall make information available  
6-21 describing the commission's procedures for complaint investigation  
6-22 and resolution.

6-23 (c) The commission shall periodically notify the complaint  
6-24 parties of the status of the complaint until final disposition.

6-25 (d) The commission by rule shall require an investigation  
6-26 related to a complaint filed with the commission to be completed  
6-27 within a reasonable time.

6-28 (e) The commission shall analyze the complaints filed with  
6-29 the commission to identify any trends or issues related to certain  
6-30 violations.

6-31 Sec. 467.113. CONSUMER INFORMATION AND PROTECTION. The  
6-32 commission shall identify applicable laws governing consumer  
6-33 information and protection and adopt policies to ensure that the  
6-34 commission complies with those laws.

6-35 SECTION 28. Subchapter B, Chapter 2001, Occupations Code,  
6-36 is amended by adding Section 2001.0555 to read as follows:

6-37 Sec. 2001.0555. COMPLIANCE MONITORING. The commission  
6-38 shall adopt rules to govern the commission's monitoring of a  
6-39 license holder to determine if the license holder is in compliance  
6-40 with this chapter or rules adopted under this chapter. The rules at  
6-41 a minimum must address audits and inspections and other compliance  
6-42 and enforcement activities.

6-43 SECTION 29. Section 2001.057, Occupations Code, is amended  
6-44 by adding Subsections (h) and (i) to read as follows:

6-45 (h) The committee shall annually develop a work plan  
6-46 detailing the committee's objectives and the issues to be addressed  
6-47 by the committee during the year. The plan must be submitted to and  
6-48 formally approved by the commission in a public meeting. The plan  
6-49 must:

6-50 (1) assess trends in the charitable bingo industry;

6-51 (2) review bingo rules to determine whether changes,  
6-52 additions, or deletions are needed; and

6-53 (3) address other issues as determined by the  
6-54 commission.

6-55 (i) The committee shall perform a review at the end of each  
6-56 year to:

6-57 (1) assess the committee's accomplishments during the  
6-58 year;

6-59 (2) identify opportunities for improving the  
6-60 commission's regulation of bingo; and

6-61 (3) develop specific recommendations for commission  
6-62 action.

6-63 SECTION 30. Section 2001.101, Occupations Code, is amended  
6-64 to read as follows:

6-65 Sec. 2001.101. AUTHORIZED ORGANIZATION. (a) The  
6-66 commission may license a person who is an authorized organization  
6-67 eligible for a license to conduct bingo if the person has been in  
6-68 existence for the time required by commission rule to ensure the  
6-69 continuity and bona fide nature of the organization and is:

7-1 (1) a religious society [~~that has existed in this~~  
7-2 ~~state for at least eight years~~];

7-3 (2) a nonprofit organization:  
7-4 (A) whose predominant activities are for the  
7-5 support of medical research or treatment programs; and

7-6 (B) that [~~for at least three years~~]:  
7-7 (i) has [~~must have had~~] a governing body or  
7-8 officers elected by a vote of members or by a vote of delegates  
7-9 elected by the members; or

7-10 (ii) is [~~must have been~~] affiliated with a  
7-11 state or national organization organized to perform the same  
7-12 purposes as the nonprofit organization;

7-13 (3) a fraternal organization;

7-14 (4) a veterans organization; or

7-15 (5) a volunteer fire department.

7-16 (b) A fraternal organization:

7-17 (1) [~~must have been organized in this state for at~~  
7-18 ~~least three years~~;

7-19 [~~2~~] must have [~~had during the three-year period~~] a  
7-20 bona fide membership actively and must have continuously engaged as  
7-21 an organization in furthering its authorized purposes; and

7-22 (2) [~~3~~] may not have authorized a person on behalf of  
7-23 its membership, governing body, or officers to support or oppose a  
7-24 particular candidate for public office by:

7-25 (A) making political speeches;

7-26 (B) passing out cards or other political  
7-27 literature;

7-28 (C) writing letters;

7-29 (D) signing or circulating petitions;

7-30 (E) making campaign contributions; or

7-31 (F) soliciting votes.

7-32 SECTION 31. Subchapter G, Chapter 2001, Occupations Code,  
7-33 is amended by adding Section 2001.3015 to read as follows:

7-34 Sec. 2001.3015. LICENSING RULES. The commission by rule  
7-35 shall:

7-36 (1) establish comprehensive qualifications for a  
7-37 person to be licensed or the person's license to be renewed under  
7-38 this chapter;

7-39 (2) develop a standard license renewal process, from  
7-40 submission to completion, for each license issued under this  
7-41 chapter to ensure that a license holder continues to meet the  
7-42 eligibility requirements provided by this chapter and commission  
7-43 rule; and

7-44 (3) establish standards of conduct for a person  
7-45 licensed under this chapter.

7-46 SECTION 32. The heading to Subchapter H, Chapter 2001,  
7-47 Occupations Code, is amended to read as follows:

7-48 SUBCHAPTER H. LICENSE DENIAL AND DISCIPLINE [~~, REVOCATION, AND~~  
7-49 ~~SUSPENSION~~] OF LICENSE HOLDERS

7-50 SECTION 33. Section 2001.351, Occupations Code, is amended  
7-51 to read as follows:

7-52 Sec. 2001.351. DENIAL OF LICENSE. (a) The commission may  
7-53 deny an application for a license or renewal of a license issued  
7-54 under this chapter for a cause that would permit or require the  
7-55 suspension or revocation of a license issued under this chapter.

7-56 (b) In making a determination whether to renew a license,  
7-57 the commission shall consider the compliance history of a license  
7-58 holder. The commission shall adopt rules to govern the specific  
7-59 areas of compliance history that may be considered in the renewal  
7-60 determination.

7-61 (c) After an opportunity for a hearing, the commission may  
7-62 deny an application for renewal of a license if the applicant's  
7-63 compliance history reveals conduct that is inconsistent with this  
7-64 chapter or the commission's rules adopted under this chapter in the  
7-65 specific areas considered by the commission in accordance with the  
7-66 rules adopted under Subsection (b).

7-67 SECTION 34. Section 2001.353, Occupations Code, is amended  
7-68 to read as follows:

7-69 Sec. 2001.353. DISCIPLINE [~~SUSPENSION OR REVOCATION~~] OF

8-1 LICENSE HOLDERS. (a) After a hearing, the commission shall ~~may~~  
8-2 suspend, ~~or~~ revoke, or refuse to renew a license issued under this  
8-3 chapter or shall reprimand a license holder for:

8-4 (1) failure to comply with this chapter or a  
8-5 commission rule; or

8-6 (2) a reason that would allow or require the  
8-7 commission to refuse to issue or renew a license of the same class.

8-8 (b) The commission may place on probation a person whose  
8-9 license is suspended. If a license suspension is probated, the  
8-10 commission may require the person:

8-11 (1) to report regularly to the commission on the  
8-12 matters that are the basis of the probation;

8-13 (2) to limit the person's activities under the license  
8-14 in the manner prescribed by the commission; or

8-15 (3) to take any other reasonable action prescribed by  
8-16 the commission to address the matters that are the basis of the  
8-17 probation.

8-18 (c) The commission by rule shall:

8-19 (1) adopt written guidelines to ensure that probation  
8-20 is administered consistently; and

8-21 (2) develop a system to track compliance with  
8-22 probation requirements.

8-23 SECTION 35. Section 2001.355, Occupations Code, is amended  
8-24 by amending Subsection (b) and adding Subsection (d) to read as  
8-25 follows:

8-26 (b) Before temporarily suspending a license, the director  
8-27 of bingo operations must follow any prehearing rules adopted by the  
8-28 commission to determine if the license holder's continued operation  
8-29 may constitute:

8-30 (1) an immediate threat to the health, safety, morals,  
8-31 or welfare of the public; or

8-32 (2) a financial loss to this state, which includes a  
8-33 license holder's failure to remit taxes under Section 2001.501 or  
8-34 prize fee payments under Section 2001.502 to the commission as  
8-35 required by those sections.

8-36 (d) The commission shall adopt rules to govern the temporary  
8-37 suspension of a license under this section.

8-38 SECTION 36. Subchapter H, Chapter 2001, Occupations Code,  
8-39 is amended by adding Section 2001.358 to read as follows:

8-40 Sec. 2001.358. SCHEDULE OF SANCTIONS; TIMELINE. (a) The  
8-41 commission by rule shall adopt a schedule of sanctions that defines  
8-42 and summarizes violations of this chapter or commission rules  
8-43 adopted under this chapter to ensure that the sanctions imposed are  
8-44 appropriate to the violation.

8-45 (b) The schedule must:

8-46 (1) allow deviations from the schedule for mitigating  
8-47 circumstances clearly established by the commission;

8-48 (2) include a list of the most common violations and  
8-49 the sanctions assessed for those violations; and

8-50 (3) establish the sanctions in accordance with the  
8-51 seriousness or frequency of each type of violation.

8-52 (c) The commission by rule shall establish a timeline for  
8-53 resolution of a violation of this chapter or commission rules  
8-54 adopted under this chapter. The rules must include:

8-55 (1) a designated period for a person licensed under  
8-56 this chapter to provide proof of corrective measures taken as  
8-57 required by the commission for a violation of this chapter or  
8-58 commission rules; and

8-59 (2) an approach and a designated period for the  
8-60 commission to subsequently monitor a person found to have committed  
8-61 a significant violation of this chapter or commission rules.

8-62 SECTION 37. Subsection (a), Section 2001.407, Occupations  
8-63 Code, is amended to read as follows:

8-64 (a) A licensed manufacturer may furnish, by sale or  
8-65 otherwise, bingo equipment or supplies to a licensed distributor.  
8-66 A ~~Except as provided by Section 2001.257(b), a~~ licensed  
8-67 manufacturer may not furnish, by sale or otherwise, bingo equipment  
8-68 or supplies to a person other than a licensed distributor.

8-69 SECTION 38. Subsection (a), Section 2001.459, Occupations



Code, is amended to read as follows:

(a) The following items of expense incurred or paid in connection with the conduct of bingo must be paid from an organization's bingo account:

- (1) advertising, including the cost of printing bingo gift certificates;
- (2) security during a bingo occasion;
- (3) the purchase or repair of bingo supplies and equipment;
- (4) prizes, other than authorized cash prizes;
- (5) stated rental expenses;
- (6) bookkeeping, legal, or accounting services;
- (7) fees for callers, cashiers, and ushers;
- (8) janitorial services; and
- (9) license fees[~~, and~~

~~[(10) payment for services provided by a system service provider].~~

SECTION 39. Subsection (a), Section 2001.553, Occupations Code, is amended to read as follows:

(a) A person commits an offense if a person sells or attempts to induce the sale of bingo equipment or [~~or~~] supplies [~~, or automated bingo services~~] to a licensed authorized organization and the person is not licensed to do so.

SECTION 40. The following are repealed:

- (1) Section 466.003 and Subsection (c), Section 467.032, Government Code;
- (2) Subdivision (3), Section 2001.002, Section 2001.052, Subsection (b), Section 2001.057, and Subsection (b), Section 2001.553, Occupations Code; and
- (3) Subchapter F, Chapter 2001, Occupations Code.

SECTION 41. Not later than March 1, 2006, the Texas Lottery Commission shall:

- (1) adopt the rules and procedures required by Section 466.1005, Government Code, as added by this Act;
- (2) adopt the rules required by:
  - (A) Section 467.112, Government Code, as added by this Act;
  - (B) Sections 2001.0555 and 2001.3015, Occupations Code, as added by this Act; and
  - (C) Sections 2001.101, 2001.351, 2001.353, and 2001.355, Occupations Code, as amended by this Act;
- (3) adopt the comprehensive business plan required by Section 466.027, Government Code, as added by this Act;
- (4) adopt the policies required by Sections 467.110 and 467.113, Government Code, as added by this Act;
- (5) adopt the schedule of sanctions and timeline required by Section 2001.358, Occupations Code, as added by this Act; and
- (6) through the lottery division and its director, prescribe the form and amount of the license amendment fee as required by Subsection (g), Section 466.151, Government Code, as added by this Act.

SECTION 42. (a) The changes in law made by this Act in the prohibitions or qualifications applying to a member of the Texas Lottery Commission do not affect the entitlement of a member serving on the Texas Lottery Commission immediately before September 1, 2005, to continue to serve and function as a member of the Texas Lottery Commission for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2005.

(b) Promptly after this Act takes effect, the governor shall appoint two additional members to the Texas Lottery Commission. In appointing those members, the governor shall appoint one person to a term expiring February 1, 2009, and one to a term expiring February 1, 2011.

(c) The changes in law made by this Act to Chapter 467, Government Code, relating to the investigation of a complaint filed with the Texas Lottery Commission apply only to a complaint filed on or after September 1, 2005. A complaint filed with the commission

10-1 before September 1, 2005, is governed by the law as it existed  
10-2 immediately before that date, and the former law is continued in  
10-3 effect for that purpose.

10-4 (d) The change in law made by this Act requiring the Texas  
10-5 Lottery Commission to approve a procurement applies only to a  
10-6 procurement or a contract for a procurement made on or after the  
10-7 effective date of this Act. A procurement or procurement contract  
10-8 made before the effective date of this Act is governed by the law in  
10-9 effect when the procurement or contract was made, and the former law  
10-10 is continued in effect for that purpose.

10-11 (e) The changes in law made by this Act governing  
10-12 eligibility of a person for a license under Chapter 2001,  
10-13 Occupations Code, apply only to the issuance or renewal of a license  
10-14 by the Texas Lottery Commission under Chapter 2001, Occupations  
10-15 Code, as amended by this Act, on or after the effective date of this  
10-16 Act. A license issued by the Texas Lottery Commission under that  
10-17 chapter before the effective date of this Act is governed by the  
10-18 licensing requirements in effect when the license was last issued  
10-19 or renewed until the license expires or is renewed as provided by  
10-20 Chapter 2001, Occupations Code, as amended by this Act.

10-21 SECTION 43. This Act takes effect September 1, 2005.

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