

By: West, Royce

S.B. No. 1097

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation of video lottery games as part of the
3 state lottery in municipalities or counties in which the voters
4 have approved the operation of the games; providing penalties.

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

6 SECTION 1. It is the intent of the legislature that a local
7 option election to authorize the operation of video lottery games
8 as part of the state lottery in a county or municipality may not be
9 held, and that video lottery games may not be conducted under this
10 Act, unless and until the voters of this state have approved the
11 constitutional amendment authorizing the operation of video
12 lottery games on behalf of the state by persons licensed to operate
13 video lottery games in counties or municipalities in which the
14 voters have approved the operation of the games.

15 SECTION 2. Subtitle E, Title 4, Government Code, is amended
16 by adding Chapter 466A to read as follows:

17 CHAPTER 466A. VIDEO LOTTERY

18 SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

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

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

7 (6) "Video lottery technology provider" means a
8 person licensed under this chapter to provide video lottery
9 equipment and services.

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

11 SUBCHAPTER B. ADMINISTRATION

12 Sec. 466A.051. POWERS AND DUTIES OF COMMISSION AND
13 EXECUTIVE DIRECTOR. (a) The commission and the executive director
14 of the commission have broad authority and shall exercise strict
15 control and close supervision over video lottery games operated in
16 this state under this chapter to promote and ensure integrity,
17 security, honesty, and fairness in the conduct and administration
18 of video lottery.

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

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

25 Sec. 466A.053. ANNUAL REPORT. The commission shall file an
26 annual report with the governor, the comptroller, and the
27 legislature that summarizes video lottery revenues, prize

1 disbursements, and other expenses for the state fiscal year
2 preceding the report. The report must be in the form and reported
3 in the time provided by the General Appropriations Act.

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

7 (1) this chapter by any person; or

8 (2) the penal laws of this state in connection with the
9 conduct or administration of video lottery by the commission or its
10 personnel, a video lottery retailer, or a video lottery technology
11 provider.

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

13 SUBCHAPTER C. LICENSE AND CONTRACT REQUIREMENTS

14 Sec. 466A.101. RESTRICTIONS ON VIDEO LOTTERY. (a) A person
15 may not conduct video lottery in this state unless the person is a
16 video lottery retailer that conducts the video lottery on property
17 owned or leased by the retailer that is located in territory in
18 which the operation of video lottery games is authorized under
19 Subchapter E.

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

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

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

27 (2) the type of game is approved for use by the

1 commission; and

2 (3) the machine on which the game is played is actively
3 linked to and controlled by the commission's video lottery central
4 computer system.

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

10 Sec. 466A.103. VIDEO LOTTERY RETAILER LICENSE. (a) On
11 application, the commission may issue a video lottery retailer
12 license to a person selected by the commission who is not ineligible
13 to hold the license under another provision of this chapter or
14 commission rule.

15 (b) A person that holds a license issued under this section
16 may operate video lottery games in accordance with this chapter and
17 commission rules at a location approved by the commission that is
18 located in territory in which the operation of video lottery games
19 is authorized under Subchapter E.

20 (c) The commission by rule may establish the minimum
21 qualifications for a person to hold a video lottery retailer
22 license under this section. The commission shall establish those
23 qualifications as the commission determines appropriate to
24 maximize revenues from the lottery to support public education and
25 serve the convenience of persons wishing to play video lottery
26 games consistent with the health and safety of the public.

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

1 (a) The commission shall issue a video lottery technology provider
2 license to an eligible person with resources and technology the
3 commission determines to be compatible with the video lottery
4 central computer system to provide video lottery equipment and
5 services to video lottery retailers conducting video lottery under
6 this chapter.

7 (b) A person licensed as a video lottery technology provider
8 may not provide video lottery technology or equipment to any person
9 without the consent of the commission.

10 (c) The commission by rule may establish the minimum
11 qualifications for a video lottery technology provider license.
12 The commission shall establish those qualifications as the
13 commission determines appropriate to promote a competitive market
14 for video lottery goods and services and the availability of
15 reliable video lottery equipment and services to the commission and
16 to video lottery retailers conducting video lottery games under
17 this chapter, consistent with the health and safety of the public.

18 Sec. 466A.105. DISCIPLINARY ACTION. (a) The commission
19 may refuse to issue a license or may revoke, suspend, or refuse to
20 renew a license or may reprimand a license holder for a violation of
21 this chapter, other state law, or a rule of the commission.

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

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

26 (d) The commission may summarily suspend a license issued
27 under this chapter in the manner prescribed by Section 466.160 if

1 the commission determines that the action is necessary to maintain
2 the integrity, security, or fairness of video lottery operations.

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

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

7 [Sections 466A.106-466A.150 reserved for expansion]

8 SUBCHAPTER D. REVENUE

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

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

16 Sec. 466A.152. STATE VIDEO LOTTERY ACCOUNT. (a) The state
17 video lottery account is a special account in the general revenue
18 fund. The account consists of all revenue received by the
19 commission from video lottery, fees received under this chapter,
20 and all money credited to the account from any other fund or source
21 under law.

22 (b) Money in the state video lottery account may be used
23 only:

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

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

1 (3) for transfer to the general revenue fund.

2 (c) The comptroller shall maintain a reserve in the fund
3 sufficient to pay the amounts necessary or estimated to be
4 necessary for the purposes provided by Subsections (b)(1) and (2).
5 The remaining money in the fund shall be transferred to the general
6 revenue fund at least monthly.

7 [Sections 466A.153-466A.200 reserved for expansion]

8 SUBCHAPTER E. AUTHORIZATION OF VIDEO LOTTERY

9 BY LOCAL OPTION

10 Sec. 466A.201. LOCAL OPTION ELECTION ORDER. On receipt of a
11 petition calling for an election under this subchapter, the
12 commissioners court of a county in which the operation of video
13 lottery games is not currently authorized in all parts of the county
14 or the governing body of a municipality in which the operation of
15 video lottery games is not currently authorized shall order an
16 election on whether to authorize the operation of video lottery
17 games as part of the state lottery in the county or municipality.

18 Sec. 466A.202. PETITION FOR ELECTION. (a) A petition
19 calling for a local option election described by Section 466A.201
20 must contain:

21 (1) a heading that includes the following words:
22 "Petition for a Local Option Election to Authorize the Operation of
23 Video Lottery Games"; and

24 (2) a statement of the issue to be voted on, in the
25 following words: "Authorizing the operation of video lottery games
26 as part of the state lottery in _____ (insert name of county or
27 municipality)."

1 (b) The petition must be signed by a number of registered
2 voters of the county or municipality, as applicable, equal to not
3 less than five percent of the number of votes cast in the county or
4 municipality for all candidates for governor in the most recent
5 gubernatorial general election.

6 (c) Not later than the 40th day after the date the
7 commissioners court or governing body receives the petition, the
8 county or municipal clerk shall determine whether the petition is
9 valid and shall certify that determination to the commissioners
10 court or governing body.

11 Sec. 466A.203. ELECTION; AUTHORIZATION OF VIDEO LOTTERY.

12 (a) If the county or municipal clerk certifies that a petition
13 submitted under Section 466A.202 is valid, the commissioners court
14 or governing body at its next regular session after the
15 certification shall order an election to be held in the county or
16 municipality on the next uniform election date authorized by
17 Section 41.001, Election Code, that occurs at least 65 days after
18 the date of the order and that affords enough time to hold the
19 election in the manner required by law.

20 (b) The ballot shall be printed to permit voting for or
21 against the proposition: "Authorizing the operation of video
22 lottery games as part of the state lottery in _____ (insert name
23 of county or municipality)." If the election is to be held in a
24 county in which is located territory of one or more municipalities
25 in which the approval of video lottery games by the voters of the
26 county will not apply as provided by Subsection (d), the
27 proposition shall include the phrase "other than in _____"

1 (insert name of municipality or municipalities)."

2 (c) If a majority of the votes cast in the election favor the
3 proposition, the operation of video lottery games is authorized in
4 the county or municipality, other than as provided by Subsection
5 (d), and the commissioners court or governing body shall certify
6 that fact to the secretary of state not later than the 10th day
7 after the date the returns are canvassed. The secretary of state
8 shall promptly notify the commission on receipt of the
9 certification.

10 (d) In a county in which the operation of video lottery
11 games is approved by the voters in an election under this section,
12 the approval does not apply to territory located in a municipality
13 in which an election has previously been held under this section in
14 which a majority of the voters voting in the election did not favor
15 a proposition authorizing the operation of video lottery games.

16 [Sections 466A.204-466A.250 reserved for expansion]

17 SUBCHAPTER F. OFFENSES; PENALTIES

18 Sec. 466A.251. MANIPULATION OR TAMPERING. (a) A person
19 commits an offense if the person intentionally or knowingly
20 manipulates the outcome of a video lottery game, the amount of a
21 video lottery game prize, or the operation of a video lottery
22 machine by physical, electronic, or other means, other than in
23 accordance with commission rules.

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

26 Sec. 466A.252. SALE OF VIDEO LOTTERY GAME TO PERSON YOUNGER
27 THAN 18 YEARS OF AGE. (a) A video lottery retailer or an employee

1 or agent of a video lottery retailer commits an offense if the
2 person intentionally or knowingly:

3 (1) sells or offers to sell a play of a video lottery
4 game to an individual the person knows is younger than 18 years of
5 age or permits the individual to purchase a play of a video lottery
6 game; or

7 (2) pays money or issues a video credit slip or other
8 winnings for a play of a video lottery game to an individual the
9 person knows is younger than 18 years of age.

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

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

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

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

19 (c) An offense under Subsection (a) is a Class B
20 misdemeanor.

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

23 Sec. 466A.253. ADMINISTRATIVE PENALTY. The commission may
24 impose an administrative penalty against a person licensed under
25 this chapter who violates this chapter or a rule or order adopted
26 under this chapter.

27 Sec. 466A.254. CIVIL PENALTY. (a) A person who violates

1 this chapter or a rule adopted by the commission under this chapter
2 is liable to the state for a civil penalty not to exceed \$5,000 for
3 each day of violation.

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

7 SECTION 3. Section 466.024(b), Government Code, is amended
8 to read as follows:

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

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

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

16 (1) was permitted under Chapter 2001, Occupations
17 Code;

18 (2) was permitted under Chapter 2002, Occupations
19 Code;

20 (3) consisted entirely of participation in:

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

23 (B) state video lottery authorized by Chapter
24 466A, Government Code;

25 (4) was permitted under the Texas Racing Act (Article
26 179e, Vernon's Texas Civil Statutes); or

27 (5) consisted entirely of participation in a drawing

1 for the opportunity to participate in a hunting, fishing, or other
2 recreational event conducted by the Parks and Wildlife Department.

3 SECTION 5. Section 47.09, Penal Code, is amended by
4 amending Subsection (a) and adding Subsection (c) to read as
5 follows:

6 (a) It is a defense to prosecution under this chapter that
7 the conduct:

8 (1) was authorized under:

9 (A) Chapter 2001, Occupations Code;

10 (B) Chapter 2002, Occupations Code; or

11 (C) the Texas Racing Act (Article 179e, Vernon's
12 Texas Civil Statutes);

13 (2) consisted entirely of participation in the state
14 lottery authorized by Chapter 466, Government Code, or in state
15 video lottery authorized by Chapter 466A, Government Code; or

16 (3) was a necessary incident to the operation of the
17 state lottery or state video lottery and was directly or indirectly
18 authorized by:

19 (A) Chapter 466 or 466A, Government Code;

20 (B) the lottery division of the Texas Lottery
21 Commission;

22 (C) the Texas Lottery Commission; or

23 (D) the director of the lottery division of the
24 Texas Lottery Commission.

25 (c) Subsection (a)(3) applies to a person manufacturing,
26 possessing, or operating a gambling device under a license or other
27 authorization of the Texas Lottery Commission under Chapter 466A,

1 Government Code, or under a contract entered into with the
2 commission under that chapter.

3 SECTION 6. Chapter 47, Penal Code, is amended by adding
4 Section 47.095 to read as follows:

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

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

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

20 SECTION 8. The change in law made by this Act applies only
21 to an offense committed on or after the effective date of this Act.
22 An offense committed before the effective date of this Act is
23 covered by the law in effect when the offense was committed, and the
24 former law is continued in effect for that purpose. For purposes of
25 this section, an offense was committed before the effective date of
26 this Act if any element of the offense was committed before that
27 date.

1 SECTION 9. This Act takes effect on the date the
2 constitutional amendment proposed by the 79th Legislature, Regular
3 Session, 2005, authorizing the operation of video lottery games on
4 behalf of the state by persons licensed to operate video lottery
5 games in counties or municipalities in which the voters have
6 approved the operation of the games takes effect. If that amendment
7 is not approved by the voters, this Act has no effect.