

By: Armbrister

S.B. No. 1326

A BILL TO BE ENTITLED

AN ACT

relating to the creation of county gaming districts to regulate local-option video lottery gaming; providing penalties.

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

SECTION 1. Subtitle C, Title 10, Local Government Code, is amended by adding Chapter 328 to read as follows:

CHAPTER 328. COUNTY GAMING DISTRICTS TO ADMINISTER STATE VIDEO LOTTERY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 328.001. DEFINITIONS. In this chapter:

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

(2) "District" means a county gaming district.

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

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

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

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

[Sections 328.002-328.050 reserved for expansion]

1 SUBCHAPTER B. CREATION OF DISTRICTS

2 Sec. 328.051. CREATION AND PURPOSE OF DISTRICT. (a) The
3 commissioners court of a county may call an election on the question
4 of creating a county gaming district in the county under this
5 chapter to permit the conduct of video lottery games in the
6 district.

7 (b) The order calling the election must:

8 (1) define the boundaries of the district to include
9 all or part of the boundaries of the county; and

10 (2) call for the election to be held within those
11 boundaries.

12 (c) The ballot at an election held under this section must
13 be printed to permit voting for or against the proposition:
14 "Authorizing the creation of the _____ (Name of County) Gaming
15 District in which video lottery games may be conducted."

16 (d) The proposition is approved and the district is created
17 if a majority of the voters of the proposed district voting at the
18 election favor creation of the district.

19 (e) If the proposition is not approved at the election,
20 another election on the question of creating a gaming district may
21 not be held in the county before the first anniversary of the
22 election.

23 (f) The Election Code governs an election held under this
24 section.

25 (g) If the proposed district consists of one or more whole
26 county commissioners precincts, in the order calling the election,
27 the county may provide for the district boundaries to conform

1 automatically to any future changes in the boundaries of the
2 precinct or precincts included in the district.

3 Sec. 328.052. BOUNDARIES. A district is composed of the
4 area described by the order calling the election to create the
5 district, subject to changes made under Section 328.051(g).

6 [Sections 328.053-328.100 reserved for expansion]

7 SUBCHAPTER C. VIDEO LOTTERY

8 Sec. 328.101. VIDEO LOTTERY RETAILER LICENSE. (a) On
9 application, the commission shall issue a video lottery retailer
10 license to an applicant who meets the minimum qualifications
11 established under this section and is not ineligible to hold the
12 license under another provision of this chapter or commission rule.

13 (b) A person that holds a license issued under this section
14 may operate video lottery games in accordance with this chapter and
15 commission rules at one location approved by the commission within
16 the boundaries of each district. Any change in the location must be
17 approved in advance by the commission and the commissioners court
18 of the county in which the district is located.

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

27 Sec. 328.102. VIDEO LOTTERY TECHNOLOGY PROVIDER LICENSE.

1 (a) The commission shall issue a video lottery technology provider
2 license to a person with resources and technology the commission
3 determines adequate to provide video lottery equipment and services
4 to video lottery retailers conducting video lottery in a district
5 under this chapter.

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

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

17 (d) The commission by rule shall prescribe all necessary
18 procedures for licenses issued under this section and shall set
19 licensing fees in amounts necessary to cover the commission's costs
20 of administering this section.

21 Sec. 328.103. OTHER LICENSES AND PERMITS. The commission
22 may establish other licensing or permit requirements the commission
23 considers appropriate to carry out the commission's duties under
24 this chapter.

25 Sec. 328.104. LICENSING PROCEDURES; TERMS AND CONDITIONS.

26 (a) The commission shall establish the terms of licenses and
27 permits issued under this chapter, not to exceed a term of two

1 years, and shall prescribe procedures for applying for and renewing
2 licenses and permits.

3 (b) The commission may include any terms or conditions in a
4 license or permit the commission considers appropriate to further
5 the purposes of this chapter.

6 Sec. 328.105. DISCIPLINARY ACTION. (a) The commission
7 may refuse to issue a license under this chapter or may revoke,
8 suspend, or refuse to renew a license issued under this chapter, or
9 may reprimand a license holder for a violation of this chapter,
10 other state law, or a rule of the commission.

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

13 (c) The commission may place on probation subject to
14 reasonable conditions a person whose license is suspended by the
15 commission.

16 (d) The commission may summarily suspend a license issued by
17 the commission under this chapter in the manner prescribed by
18 Section 466.160, Government Code, if the commission determines that
19 the action is necessary to maintain the integrity, security, or
20 fairness of video lottery operations.

21 (e) The commission by rule shall develop a system for
22 monitoring a license holder's compliance with this chapter and
23 applicable rules of the commission.

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

26 [Sections 328.106-328.150 reserved for expansion]

SUBCHAPTER D. REVENUE

1
2 Sec. 328.151. NET TERMINAL INCOME DEFINED. In this
3 subchapter, "net terminal income" means the total amount of money
4 paid to play video lottery games less the value of all prizes paid
5 to players of the games, including the value of credits redeemed for
6 money. The costs associated with progressive prizes may not be
7 deducted from the total amount of money paid to play video lottery
8 games for purposes of determining net terminal income. Promotional
9 prizes offered by a video lottery retailer may not be deducted as
10 prizes paid to players for the purpose of determining net terminal
11 income.

12 Sec. 328.152. DIVISION OF NET TERMINAL INCOME OF VIDEO
13 LOTTERY RETAILER. (a) At the times and in the manner prescribed by
14 commission rule, a video lottery retailer shall pay to the
15 commission an amount equal to 40 percent of the net terminal income
16 derived from video lottery games conducted by the video lottery
17 retailer.

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

20 Sec. 328.153. VIDEO LOTTERY FUND. (a) The commission shall
21 establish a fund known as the video lottery fund. The commission
22 shall establish a separate account within the fund for each
23 district.

24 (b) The fund consists of all revenue received by the
25 commission from video lottery, including fees received by the
26 commission under this chapter, and all money credited to the
27 account from any other fund or source under law. Net terminal

1 income received from a video lottery retailer shall be deposited to
2 the credit of the account established for the district in which the
3 net terminal income was collected.

4 (c) Money deposited in the video lottery fund may be used
5 only for:

6 (1) the payment of costs incurred by the commission in
7 the administration of this chapter; and

8 (2) distribution to counties and municipalities under
9 Section 328.154.

10 (d) The commission may establish a reserve account in the
11 fund to maintain sufficient money in the fund for purposes of
12 Subsection (c)(1). The commission shall use money in the fund not
13 credited to the account established for any district for purposes
14 of Subsection (c)(1) before using money credited to an account for a
15 district. If the money in the fund not credited to the account
16 established for a district is insufficient for purposes of
17 Subsection (c)(1), the commission may use money credited to the
18 accounts established for the districts for those purposes in
19 proportion to the amount deposited to the credit of each account for
20 the most recent year for which the information is available.

21 Sec. 328.154. DISTRIBUTION OF NET TERMINAL INCOME TO
22 COUNTIES AND MUNICIPALITIES. (a) Except for amounts used as
23 permitted by Section 328.153(d), not later than February 1 of each
24 year, the comptroller shall distribute the money deposited in the
25 fund to the credit of the account established for each district in
26 the preceding year as follows:

27 (1) an amount equal to six percent of the net terminal

1 income deposited to the credit of the account for the preceding year
2 shall be distributed as provided by Subsection (b); and

3 (2) the remainder shall be transferred to the county
4 in which the district is located for property tax relief as provided
5 by Section 328.155.

6 (b) The comptroller shall distribute the revenue described
7 by Subsection (a)(1) for each district as follows:

8 (1) one-third to the county in which the district is
9 located, to be used for general governmental purposes;

10 (2) one-third allocated in proportion to population
11 within the county in which the district is located to the
12 municipalities having territory in the county, to be used for
13 general governmental purposes; and

14 (3) the remainder allocated in proportion to
15 population to all other counties and municipalities in this state.

16 (c) A county or municipality may spend revenue received
17 under Subsection (b)(3) only for:

18 (1) property tax relief as provided by Section
19 328.155;

20 (2) water infrastructure projects;

21 (3) mobility projects; or

22 (4) health care and health services.

23 Sec. 328.155. PROPERTY TAX RELIEF. (a) A county that
24 receives revenue designated for tax relief under Section
25 328.154(a)(2) or a county or municipality that receives revenue
26 under Section 328.154(b) that the governing body of the county or
27 municipality designates for property tax relief shall adjust the

1 effective tax rate and rollback tax rate for the county or
2 municipality, as applicable, for purposes of Chapter 26, Tax Code,
3 as follows:

4 (1) if the amount of revenue designated for tax relief
5 received in the preceding tax year exceeds the amount of that
6 revenue received in the tax year preceding that tax year, the
7 effective tax rate and rollback tax rates for the current tax year
8 are reduced by the rate that, if applied to current total value as
9 defined by Chapter 26, Tax Code, would generate taxes in an amount
10 equal to the difference in revenue designated for tax relief
11 received in those two preceding tax years; and

12 (2) if the amount of revenue designated for tax relief
13 received in the preceding tax year is less than the amount of that
14 revenue received in the tax year preceding that tax year, the
15 effective tax rate and rollback tax rates for the current tax year
16 are increased by the rate that, if applied to current total value as
17 defined by Chapter 26, Tax Code, would generate taxes in an amount
18 equal to the difference in revenue designated for tax relief
19 received in those two preceding tax years.

20 (b) Revenue designated for tax relief received by a county
21 or municipality under this chapter shall be deposited to the credit
22 of the general fund of the county or municipality and may be used
23 for any governmental purpose.

24 [Sections 328.156-328.200 reserved for expansion]

25 SUBCHAPTER E. OFFENSES; PENALTIES

26 Sec. 328.201. MANIPULATION OR TAMPERING. (a) A person
27 commits an offense if the person intentionally or knowingly

1 manipulates the outcome of a video lottery game, the amount of a
2 video lottery game prize, or the operation of a video lottery
3 machine by physical, electronic, or other means, other than in
4 accordance with commission rules.

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

7 Sec. 328.202. SALE OF VIDEO LOTTERY GAME TO PERSON YOUNGER
8 THAN 18 YEARS OF AGE. (a) A video lottery retailer or an employee
9 or agent of a video lottery retailer commits an offense if the
10 person intentionally or knowingly:

11 (1) sells or offers to sell a play of a video lottery
12 game to an individual the person knows is younger than 18 years of
13 age or permits the individual to purchase a play of a video lottery
14 game; or

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

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

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

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

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

27 (c) An offense under Subsection (a) is a Class B

1 misdemeanor.

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

4 Sec. 328.203. ADMINISTRATIVE PENALTY. The commission may
5 impose an administrative penalty against a person licensed under
6 this chapter who violates this chapter or a rule or order adopted by
7 the commission under this chapter.

8 Sec. 328.204. CIVIL PENALTY. (a) A person who violates
9 this chapter or a rule adopted by the commission under this chapter
10 is liable to the state for a civil penalty not to exceed \$5,000 for
11 each day of violation.

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

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

17 (b) The commission shall adopt rules prohibiting the
18 operation of any game using a video lottery machine or machine,
19 except in accordance with Chapter 328, Local Government Code.

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

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

24 (1) was permitted under Chapter 2001, Occupations
25 Code;

26 (2) was permitted under Chapter 2002, Occupations
27 Code;

1 (3) consisted entirely of participation in:

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

4 (B) state video lottery authorized by Chapter
5 328, Local Government Code;

6 (4) was permitted under the Texas Racing Act (Article
7 179e, Vernon's Texas Civil Statutes); or

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

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

14 (a) It is a defense to prosecution under this chapter that
15 the conduct:

16 (1) was authorized under:

17 (A) Chapter 2001, Occupations Code;

18 (B) Chapter 2002, Occupations Code; or

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

21 (2) consisted entirely of participation in the state
22 lottery authorized by Chapter 466, Government Code, or in state
23 video lottery authorized by Chapter 328, Local Government Code; or

24 (3) was a necessary incident to the operation of the
25 state lottery or of state video lottery and was directly or
26 indirectly authorized by:

27 (A) Chapter 466, Government Code;

1 (B) Chapter 328, Local Government Code;

2 (C) the lottery division of the Texas Lottery
3 Commission;

4 (D) [~~C~~] the Texas Lottery Commission; or

5 (E) [~~D~~] the director of the lottery division of
6 the Texas Lottery Commission.

7 (c) Subsection (a)(3) applies to a person manufacturing,
8 possessing, or operating a gambling device under a license or other
9 authorization of the Texas Lottery Commission under Chapter 328,
10 Local Government Code.

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

13 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
14 a defense to prosecution under this chapter that a person sells,
15 leases, transports, possesses, stores, or manufactures a gambling
16 device under a video lottery technology provider license issued
17 under Chapter 328, Local Government Code, for transportation in
18 interstate or foreign commerce.

19 SECTION 6. The change in law made by this Act applies only
20 to an offense committed on or after the effective date of this Act.
21 An offense committed before the effective date of this Act is
22 covered by the law in effect when the offense was committed, and the
23 former law is continued in effect for that purpose. For purposes of
24 this section, an offense was committed before the effective date of
25 this Act if any element of the offense was committed before that
26 date.

27 SECTION 7. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2005.