

By: Armbrister

S.B. No. 1327

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment, oversight, and operation of video
3 lottery terminals owned by Indian tribes on Indian lands; providing
4 penalties.

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

6 SECTION 1. Subtitle A, Title 13, Occupations Code, is
7 amended by adding Chapter 2004 to read as follows:

8 CHAPTER 2004. VIDEO LOTTERY ON INDIAN LANDS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 2004.001. DEFINITIONS. In this chapter:

11 (1) "Communication technology" means the methods used
12 and the components employed to facilitate the transmission of
13 information, including transmission and reception systems that
14 transmit information through wire, cable, radio, microwave, light,
15 optics, or computer data networks.

16 (2) "Disable" with respect to video lottery terminals
17 means the process that causes a video lottery terminal to cease
18 functioning on issuance of a shutdown command from the video
19 lottery central system.

20 (3) "Distribute" with respect to a video lottery
21 terminal means the sale, lease, marketing, offer, or other
22 disposition of a video lottery terminal, the electronic computer
23 components of a video lottery terminal, the cabinet in which a video
24 lottery terminal is housed, video lottery equipment, or video

1 lottery game software intended for use or play in this state or on
2 Indian lands in this state.

3 (4) "Division" means the video lottery division
4 established by the comptroller under this chapter.

5 (5) "Gaming agreement" means an agreement authorized
6 under Subchapter F in effect between this state and a federally
7 recognized Indian tribe under which this state permits the tribe to
8 conduct limited gaming activities authorized under this chapter or
9 applicable federal law regulated by tribal gaming agencies subject
10 to strict and enforceable state oversight.

11 (6) "House-banked card game" means a game of chance
12 played with a deck or decks of cards:

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

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

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

17 (7) "Indian lands" means:

18 (A) land located within an Indian reservation;

19 (B) land over which an Indian tribe exercises
20 governmental power and the title to which:

21 (i) on January 1, 1998, was held in trust by
22 the United States for the benefit of an Indian tribe or individual
23 member of an Indian tribe and that currently remains held in trust;
24 or

25 (ii) on January 1, 1998, was held by an
26 Indian tribe or an individual member of an Indian tribe and subject
27 to restriction by the United Sates against alienation, and that

1 currently remains held in trust; and

2 (C) land within the same county in which land
3 that qualifies under Paragraph (A) or (B) is located, provided the
4 land is more than one-half mile from the property line of a school
5 or place of established religious worship.

6 (8) "Manufacture," with respect to video lottery,
7 means to design, assemble, fabricate, produce, program, or make
8 modifications to a video lottery terminal, the electronic computer
9 components of a video lottery terminal, the cabinet in which a video
10 lottery terminal is housed, video lottery equipment, or video
11 lottery game software intended for use or play in this state or on
12 Indian lands in this state.

13 (9) "Net terminal income" means the total amount of
14 money paid to play video lottery games, less the value of all
15 credits redeemed for money or prizes including any progressive
16 prizes, by the players of the video lottery games. Noncash prizes
17 deducted from the total amount of money paid must be valued at the
18 actual cost incurred by the video lottery terminal establishment
19 for the prize. Promotional prizes offered by a video lottery
20 terminal establishment may not be deducted or otherwise considered
21 credits redeemed for money by players for the purpose of
22 determining net terminal income. A promotional prize is a prize
23 unrelated to the play of the game.

24 (10) "Player" means a person who contributes any part
25 of the consideration to play a video lottery game under this
26 chapter.

27 (11) "Slot machine" means a mechanical, electrical, or

1 other type of device, contrivance, or machine that plays or
2 operates on insertion of a coin, currency, token, or similar object
3 or on payment of any other consideration, and that is not connected
4 to the video lottery central system, and the play or operation of
5 which, through the skill of the operator, by chance, or both, may
6 deliver or entitle the person playing or operating the machine to
7 receive cash, premiums, merchandise, tokens, or any other thing of
8 value, whether the payoff is made automatically from the machine or
9 in any other manner. The term does not include any equipment,
10 machine, technological aid, or other device in connection with the
11 play of bingo under Chapter 2001.

12 (12) "Sports event" means a football, basketball,
13 baseball, or similar game, or a horse or greyhound race on which
14 pari-mutuel wagering is allowed.

15 (13) "Substantial interest holder" means any of the
16 following that is not a federally recognized Indian tribe or a bona
17 fide lender, bank, or other authorized or licensed lending
18 institution that holds a mortgage or other lien acquired in the
19 ordinary course of business or a vendor of the applicant or license
20 holder that is not otherwise a substantial interest holder:

21 (A) a person who directly, indirectly, or
22 beneficially owns any interest in a privately owned corporation,
23 association, trust, partnership, limited partnership, joint
24 venture, subsidiary, or other entity, regardless of its form,
25 structure, or nature;

26 (B) a person who directly, indirectly, or
27 beneficially owns 10 percent or more of any publicly owned

1 corporation, association, trust, partnership, limited partnership,
2 joint venture, subsidiary, or other entity, regardless of its form,
3 structure, or nature;

4 (C) a person associated with an applicant or
5 license holder who the comptroller determines has the power or
6 authority to:

7 (i) control the activities of the applicant
8 or license holder; or

9 (ii) elect or select the applicant's or
10 license holder's comptroller, managers, or partners, or a majority
11 of the board of directors of the applicant or license holder; and

12 (D) any key personnel of a video lottery terminal
13 establishment, including the applicant's or license holder's
14 comptroller or an officer, director, manager, member, partner,
15 limited partner, executive, employee, or agent who the comptroller
16 determines has the power to exercise significant influence over
17 decisions concerning any part of the applicant's or license
18 holder's business operation.

19 (14) "Video lottery central system" means the system
20 of procedures and facilities operated and controlled by a tribal
21 gaming agency that links together all video lottery terminals
22 operated in this state by the applicable Indian tribe on its Indian
23 lands and allows the tribal gaming agency, subject to strict state
24 oversight, to continuously monitor the activity of each of those
25 video lottery terminals and to disable any of those video lottery
26 terminals.

27 (15) "Video lottery central system provider" means a

1 person that, by contract with a tribal gaming agency, provides the
2 video lottery central system to the agency.

3 (16) "Video lottery equipment" means:

4 (A) a video lottery terminal;

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

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

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

14 (iii) monitor video lottery terminal
15 operations; and

16 (iv) provide for the connection of video
17 lottery terminals to a video lottery central system; or

18 (C) any other communications technology or
19 equipment necessary for the operation of a video lottery terminal.

20 (17) "Video lottery game" means an electronically
21 simulated game approved and controlled by a tribal gaming agency,
22 pursuant to a gaming agreement in effect, the outcome of which is
23 determined solely by chance based on a computer-generated random
24 selection of winning combinations of symbols or numbers, and that
25 is displayed on a video lottery terminal that:

26 (A) is connected to a video lottery central
27 system;

1 (B) operates by a player's insertion of a coin,
2 currency, voucher, or token into the video lottery terminal that
3 causes the video lottery terminal to display credits that entitle
4 the player to select one or more symbols or numbers or cause the
5 video lottery terminal to randomly select symbols or numbers;

6 (C) allows the player to win additional game play
7 credits, coins, or tokens based on game rules that establish the
8 random selection of winning combinations of symbols or numbers and
9 the number of free play credits, coins, or tokens to be awarded for
10 each winning combination; and

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

14 (18) "Video lottery manager" means a person who is
15 licensed by a tribal gaming agency under this chapter to manage a
16 video lottery terminal establishment or who provides management
17 services for a video lottery terminal establishment on Indian
18 lands.

19 (19) "Video lottery system" means the system
20 authorized under this chapter under which individuals play lottery
21 games on video lottery terminals as authorized under this chapter
22 at video lottery terminal establishments on Indian lands subject to
23 strict state oversight.

24 (20) "Video lottery terminal" means an interactive
25 electronic terminal device that is connected to a video lottery
26 central system and displays video lottery games authorized under
27 this chapter. The term does not include a house-banked card game, a

1 slot machine, or any other stand-alone video gambling device that
2 is not connected to a video lottery central system or that is
3 otherwise prohibited under state law.

4 (21) "Video lottery terminal establishment" means
5 premises at which the operation of video lottery terminals is
6 authorized by a tribal gaming agency pursuant to a gaming agreement
7 in effect.

8 (22) "Video lottery terminal provider" means a person
9 in the business of manufacturing or distributing video lottery
10 terminals in this state.

11 (23) "Video lottery ticket" means the tangible
12 evidence issued by a video lottery terminal to reflect winnings
13 from the play of a video lottery game.

14 Sec. 2004.002. APPLICATION OF SUNSET ACT. This chapter is
15 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
16 continued in existence as provided by that chapter, this chapter
17 expires September 1, 2017.

18 Sec. 2004.0025. CONTINUITY OF STATE OVERSIGHT. (a)
19 Notwithstanding any other provision of this chapter, if any gaming
20 agreement that allows video lottery is in effect, the comptroller
21 or another state agency designated by the legislature must provide
22 oversight of the regulation by a tribal gaming agency for video
23 lottery games as necessary to comply with a gaming agreement under
24 this chapter.

25 (b) The expiration provision of Section 2004.002 does not
26 apply to this section.

27 Sec. 2004.003. NONINTERFERENCE BY STATE POLITICAL

1 SUBDIVISIONS. (a) A political subdivision of this state may not
2 impose:

- 3 (1) a tax on the play of a video lottery terminal;
4 (2) a tax on the payment of a prize under this chapter;
5 (3) an ad valorem tax on video lottery games;
6 (4) a tax, fee, or other assessment on consideration
7 paid to play a video lottery game; or
8 (5) a tax or fee for attendance at or admission to a
9 video lottery terminal establishment.

10 (b) Nothing in this chapter precludes an Indian tribe and a
11 political subdivision from entering into an agreement for municipal
12 services or for mitigation of impacts from the tribe's video
13 lottery terminal establishments.

14 Sec. 2004.004. LOCAL LAW PREEMPTED; APPLICABILITY OF OTHER
15 LAWS. (a) This chapter applies uniformly throughout this state and
16 all political subdivisions of this state.

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

23 [Sections 2004.005-2004.050 reserved for expansion]

24 SUBCHAPTER B. POWERS AND DUTIES OF COMPTROLLER

25 Sec. 2004.051. OVERSIGHT; RULES; CONTRACT AUTHORITY. (a)
26 The comptroller has oversight authority of tribal regulation over
27 all video lottery games located on Indian lands to promote and

1 ensure integrity, security, honesty, and fairness in the operation
2 and administration of video lottery games on Indian lands.

3 (b) The comptroller may adopt rules as necessary to carry
4 out the purposes of this chapter.

5 (c) The comptroller may contract with or employ a person to
6 perform a function, activity, or service in connection with the
7 comptroller's oversight of the operation of video lottery games on
8 Indian lands. A contract relating to the oversight of the operation
9 of video lottery games on Indian lands must be consistent with a
10 gaming agreement in effect. A person with whom the comptroller
11 contracts to provide services or equipment in connection with the
12 oversight of video lottery games on Indian lands must be licensed,
13 registered, or approved by the applicable tribal gaming agency in
14 accordance with the gaming agreement in effect.

15 (d) The comptroller may award a contract for equipment or
16 services, including a contract under Subsection (c), pending the
17 completion of any investigation and licensing, registration, or
18 other approval authorized and required by this chapter. A contract
19 awarded under this section must include a provision permitting the
20 comptroller to terminate the contract without penalty if the
21 investigation reveals that the person to whom the contract is
22 awarded does not satisfy the applicable requirements for licensing,
23 registration, or other approval under the gaming agreement in
24 effect.

25 (e) In the acquisition or provision of facilities,
26 supplies, equipment, materials, or services related to the
27 comptroller's oversight of video lottery games on Indian lands, the

1 comptroller is exempt from:

2 (1) procurement procedures prescribed under Subtitle
3 D, Title 10, Government Code; and

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

6 Sec. 2004.052. AUDIT AUTHORITY AND COOPERATION WITH
7 COMPTROLLER. (a) The comptroller shall conduct or cause to be
8 conducted an independent audit of a tribal video lottery terminal
9 establishment's and the tribal gaming agency's annual financial
10 statements in accordance with generally accepted auditing
11 standards that requires the accountant to express an opinion on the
12 conformity of the financial statements with generally accepted
13 accounting principles. An outside firm contracted by the
14 comptroller in connection with the audit may not have a significant
15 financial interest in a video lottery vendor, video lottery
16 manager, video lottery retailer, video lottery terminal provider,
17 video lottery central system provider, or lottery operator. The
18 comptroller shall present an audit report to the governor, the
19 tribal gaming agency, and the legislature not later than the 30th
20 day after the submission date for the annual financial report
21 required by the General Appropriations Act. The state auditor may
22 review the results of and working papers related to the audit.

23 (b) The records of a video lottery manager, video lottery
24 retailer, video lottery terminal provider, or video lottery central
25 system provider are subject to audit by the comptroller and the
26 state auditor. For the purpose of carrying out this chapter, the
27 comptroller or state auditor may examine all books, records,

1 papers, or other objects that the comptroller or state auditor
2 determines are necessary for conducting a complete examination
3 under this chapter and may also examine under oath any officer,
4 director, or employee of a video lottery manager, video lottery
5 retailer, video lottery terminal provider, or video lottery central
6 system provider. The comptroller or state auditor may conduct an
7 examination at the principal office or any other office of the video
8 lottery manager, video lottery retailer, video lottery terminal
9 provider, or video lottery central system provider, or may require
10 the video lottery manager, video lottery retailer, video lottery
11 terminal provider, or video lottery central system provider to
12 produce the records at the office of the comptroller or state
13 auditor. If a video lottery manager, video lottery retailer, video
14 lottery terminal provider, or video lottery central system provider
15 refuses to permit an examination or to answer any question
16 authorized by this subsection, the tribal gaming agency shall
17 summarily suspend the license or registration of the video lottery
18 manager, video lottery retailer, video lottery terminal provider,
19 or video lottery central system provider until the examination is
20 completed as required.

21 Sec. 2004.053. INVESTIGATIONS. The attorney general, the
22 district attorney for Travis County, or the district attorney,
23 criminal district attorney, or county attorney performing the
24 duties of district attorney for the county in which the violation or
25 alleged violation occurred may investigate a violation or alleged
26 violation of this chapter and of the penal laws of this state.

27 Sec. 2004.054. AUTHORITY OF STATE LAW ENFORCEMENT OFFICERS.

1 (a) To administer this chapter, the comptroller may employ
2 security officers or investigators as the comptroller considers
3 necessary and may commission security officers or investigators as
4 peace officers.

5 (b) Except as limited by this section, a security officer or
6 investigator employed by the comptroller or a peace officer who is
7 working in conjunction with the comptroller or the Department of
8 Public Safety in the enforcement of this chapter may:

9 (1) without a search warrant, search a video lottery
10 terminal or other gaming equipment that is located on premises for
11 which a person holds a video lottery retailer or video lottery
12 manager license issued under this chapter; or

13 (2) on non-Indian lands, seize a video lottery
14 terminal or other gaming equipment that is being used or is in the
15 possession of any person in violation of this chapter.

16 (c) If the gaming equipment is located on the Indian lands
17 of a tribe that has entered into a gaming agreement under this
18 chapter that is in effect, the security officer or investigator
19 shall notify the applicable tribal gaming agency of the need to
20 seize the equipment. The tribal gaming agency shall take the action
21 recommended by the state officer by securing the equipment and
22 preventing further play of the equipment by gaming patrons. If the
23 tribal gaming agency concludes, after 24 hours have elapsed since
24 the seizure, that further play of the equipment does not violate
25 this chapter or other applicable law or threaten the integrity of
26 the gaming operation, the agency shall notify the comptroller. The
27 tribal gaming agency may allow the equipment to be placed back into

1 operation not earlier than 72 hours after the notice to the
2 comptroller unless the comptroller within that 72-hour period
3 secures an injunction to prohibit that action.

4 Sec. 2004.055. CONFIDENTIALITY OF RECORDS. (a) In
5 addition to the comptroller's records excepted from disclosure
6 under Chapter 552, Government Code, the following information is
7 confidential and is exempt from disclosure:

8 (1) information relating to all system operations of
9 video lottery games, including the operation of the video lottery
10 system, security related to video lottery games, and plans and
11 procedures intended to ensure the integrity and security of the
12 operation of video lottery games; and

13 (2) information provided by a tribe or tribal gaming
14 agency pursuant to the Indian tribe's obligations under this
15 chapter or under a gaming agreement that is in effect.

16 (b) Information that is confidential under this section
17 includes information that:

18 (1) is required by the comptroller to be furnished to
19 the comptroller under a gaming agreement in effect or that may
20 otherwise be obtained by the comptroller from any source;

21 (2) pertains to a tribal gaming agency license
22 applicant's criminal record, antecedents, and background that is
23 furnished to or obtained by the comptroller from any source,
24 including information obtained by the comptroller from a tribal
25 gaming agency;

26 (3) is provided to the comptroller, a comptroller
27 employee, or an investigator acting on behalf of the comptroller or

1 on behalf of a tribal gaming agency by a governmental agency or an
2 informer or on the assurance that the information will be held in
3 confidence and treated as confidential;

4 (4) is obtained by the comptroller from a video
5 lottery manager, video lottery retailer, video lottery terminal
6 provider, or video lottery central system provider;

7 (5) is prepared or obtained by an agent or employee of
8 the comptroller or of a tribal gaming agency relating to a license
9 application, a finding of suitability, or any approval required
10 under a gaming agreement in effect; or

11 (6) is provided by an Indian tribe pursuant to the
12 tribe's obligations under this chapter or under a gaming agreement
13 in effect.

14 (c) Information that qualifies as confidential under this
15 section may be disclosed in whole or in part only as necessary to
16 administer this chapter or on the order of a court of competent
17 jurisdiction. The comptroller, subject to appropriate procedures,
18 may disclose the information to an authorized agent of a political
19 subdivision of this state, the United States, another state or a
20 political subdivision of another state, a tribal law enforcement
21 agency, or the government of a foreign country for official
22 purposes of the other entity.

23 (d) The comptroller in the comptroller's discretion may
24 disclose a compilation of statistical information that is otherwise
25 confidential under this section if the compilation does not
26 disclose the identity of an applicant, license holder, or video
27 lottery terminal establishment.

1 (e) Notwithstanding any other provision of state law, the
2 information provided under Subsection (c) or (d) may not otherwise
3 be disclosed without specific comptroller authorization.

4 Sec. 2004.056. RESTRICTION ON AUTHORITY TO CONTRACT. An
5 Indian tribe or tribal gaming agency may not award a contract for
6 the purchase or lease of facilities, goods, or services related to
7 video lottery operations to a person who:

8 (1) is not registered as a video lottery terminal
9 provider by the tribal gaming agency; or

10 (2) is deemed unsuitable for a license under the
11 gaming agreement in effect.

12 Sec. 2004.057. ESTABLISHMENT OF STATE VIDEO LOTTERY
13 ACCOUNT. The state video lottery account is a special account in
14 the general revenue fund. The account consists of all revenue
15 received under gaming agreements with federally recognized Indian
16 tribes under this chapter. Interest earned by the state lottery
17 account shall be deposited in the unobligated portion of the
18 general revenue fund.

19 [Sections 2004.058-2004.100 reserved for expansion]

20 SUBCHAPTER C. AUTHORIZATION OF VIDEO LOTTERY GAMES

21 ON INDIAN LANDS

22 Sec. 2004.101. LEGISLATIVE FINDINGS AND DECLARATIONS. The
23 legislature finds and declares the following:

24 (1) The purpose and intent of this chapter is to carry
25 out the intent of the voters as established by the approval of
26 Section 47(f), Article III, Texas Constitution, to expand the
27 revenue-generating ability of this state by authorizing this state

1 to enter into gaming agreements with federally recognized Indian
2 tribes to govern the play of video lottery games on Indian lands
3 consistent with public policy strictly limiting the expansion of
4 gambling in this state.

5 (2) Except for the operation of the state lottery and
6 the operation of video lottery terminals on certain Indian lands,
7 the people of this state intend to prohibit the operation and
8 possession of gaming devices.

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

11 (A) limiting the play of video lottery terminals
12 to a fixed number of federally recognized Indian tribes;

13 (B) extending state oversight and supervision to
14 all persons, locations, practices, and associations related to the
15 operation of video lottery games; and

16 (C) providing comprehensive law enforcement
17 supervision of video lottery game activities.

18 (4) This state's ability to monitor and control the
19 operation of all video lottery terminals, including strict
20 oversight of the operation of video lottery terminals on Indian
21 lands, ensures the integrity of the system and provides for the most
22 efficient oversight and supervision. Costs incurred for oversight
23 and supervision of gambling will be significantly less than if
24 video lottery terminals were not operated as part of video lottery
25 central systems. In addition, providing for strict oversight of
26 regulation of video lottery games located on Indian lands will
27 protect against criminal infiltration of gambling operations.

1 (5) The federal policy of supporting tribal
2 self-governance and self-sufficiency is enhanced by the ability of
3 Indian tribes with Indian lands in this state to offer video lottery
4 games subject to strict state oversight as a means to generate
5 urgently needed governmental revenues to enable tribal governments
6 to provide adequate governmental services and to prudently steward
7 tribal lands.

8 (6) Through the video lottery system, the comptroller
9 will have strict oversight of the regulation of video lottery
10 terminals located on Indian lands to ensure maximum security unique
11 to government-operated gambling, and each operating video lottery
12 terminal on Indian lands will be connected to video lottery central
13 systems. The state lottery is in the for-profit governmental
14 gaming business as a competitor for the public's disposable
15 entertainment dollars and, as such, it is inappropriate for the
16 Texas Lottery Commission, the agency that oversees the state
17 lottery, to perform regulatory functions in connection with video
18 lottery games on Indian lands.

19 (7) The authorization for tribal-controlled video
20 lottery terminals subject to strict state oversight for the purpose
21 of raising revenue is consistent with this state's public policy
22 prohibiting gambling so long as the gambling is not, in any way,
23 expanded beyond that directly controlled or overseen by this state.

24 (8) By limiting operation of video lottery terminals
25 to those connected to a video lottery central system and to certain
26 Indian lands and to certain types of games, the legislature seeks to
27 foster this state's legitimate sovereign interest in regulating the

1 growth of gambling activities in this state. Historically, this
2 state has banned commercial nongovernmental gambling, and,
3 therefore, it is in this state's best interest to limit the
4 placement of governmental gambling operations to certain
5 locations. Limiting video lottery terminals to those controlled by
6 the three federally recognized Indian tribes with Indian lands in
7 this state and subject to strict state oversight is reasonably
8 designed to defend against the criminal infiltration of gambling
9 operations and adverse impacts on communities statewide. By
10 restricting gambling such as video lottery terminals to carefully
11 limited locations and video lottery terminals controlled by this
12 state that may be disabled by order to a tribal gaming agency if
13 necessary to protect the public, this state furthers the state's
14 purpose of ensuring that such gambling activities are free from
15 criminal and undesirable elements.

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

23 (10) In considering limitations on expanded gambling
24 in this state, it is a critical factor to effectuate the will of the
25 voters that any gaming on lands of the Ysleta del Sur Pueblo (Tigua
26 Tribe), the Alabama-Coushatta Tribes of Texas, and the Kickapoo
27 Traditional Tribe of Texas are entitled to operate video lottery

1 terminals only in strict compliance with the gaming agreement
2 required by this chapter. Nothing in this chapter is intended to
3 authorize any other form of gaming on Indian lands.

4 (11) In considering limitations on expanded gambling
5 in this state, it is a critical factor to effectuate the will of the
6 voters that any gaming on lands of the Ysleta del Sur Pueblo (Tigua
7 Tribe), the Alabama-Coushatta Tribes of Texas, and the Kickapoo
8 Traditional Tribe of Texas be in material part consideration for
9 the exclusive right to operate video lottery terminals at locations
10 on the Indian lands in this state, and through revenue-sharing both
11 the policy of self-governance for the tribes and this state's
12 interests in generating additional revenue for public education and
13 other state governmental programs can be promoted.

14 (12) Participation in a video lottery game by a
15 license or registration holder under this chapter is considered a
16 privilege conditioned on the proper and continued qualification of
17 the license or registration holder and on the discharge of the
18 affirmative responsibility of each license or registration holder
19 to provide to the regulatory and investigatory authorities
20 established by this chapter any assistance and information
21 necessary to assure that the policies declared by this chapter are
22 achieved. Consistent with this policy, it is the intent of this
23 chapter to:

24 (A) preclude the creation of any property right
25 in any license, registration, or approval issued or granted by a
26 tribal gaming agency under this chapter, the accrual of any value to
27 the privilege of participation in any video lottery game operation,

1 or the transfer of a license or permit; and

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

5 (13) Video lottery terminals lawfully operated on
6 Indian lands pursuant to a gaming agreement in effect are hereby
7 expressly excepted from the prohibitions and restrictions of the
8 Johnson Act (15 U.S.C. Section 1171 et seq.).

9 Sec. 2004.102. AUTHORITY TO OPERATE VIDEO LOTTERY. The
10 comptroller may allow the operation of video lottery terminals
11 pursuant to this chapter at locations on Indian lands in accordance
12 with an effective gaming agreement and in compliance with
13 applicable federal law.

14 Sec. 2004.103. STATE OVERSIGHT OF VIDEO LOTTERY SYSTEM.

15 (a) In accordance with Section 47(f), Article III, Texas
16 Constitution, the comptroller shall have oversight authority,
17 including the ability to monitor activity of video lottery
18 terminals located on Indian lands and the ability to direct a tribal
19 gaming agency to remotely disable video lottery terminals for the
20 public safety, health, and welfare or the preservation of the
21 integrity of the lottery and to prevent any financial loss to an
22 Indian tribe and to this state.

23 (b) This section does not affect or restrict the ability of
24 the video lottery retailer or manager to monitor activity of video
25 lottery terminals and to disable video lottery terminals in
26 accordance with comptroller rules.

27 (c) The comptroller may order a tribal gaming agency to

1 disable a video lottery terminal located on Indian lands if a video
2 lottery retailer's or video lottery manager's license is revoked,
3 surrendered, or summarily suspended or to prevent any financial
4 loss to this state.

5 [Sections 2004.104-2004.150 reserved for expansion]

6 SUBCHAPTER D. LICENSING, REGISTRATION, AND APPROVAL

7 Sec. 2004.151. REGISTRATION AND APPROVAL OF VIDEO LOTTERY
8 TERMINAL PROVIDERS. (a) A person may not manufacture or distribute
9 video lottery equipment for use or play in this state unless the
10 person is registered under this chapter as a video lottery terminal
11 provider by the comptroller and registered by the tribal gaming
12 agency or is otherwise approved by a tribal gaming agency pursuant
13 to a gaming agreement in effect to manufacture or distribute video
14 lottery equipment in this state.

15 (b) Unless suspended or revoked, the registration or
16 approval expires on the date specified in the registration issued
17 by the comptroller or the date specified in the registration or
18 approval by the tribal gaming agency, which may not be later than
19 the fifth anniversary of the date of the registration or approval.

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

23 (d) The comptroller and each tribal gaming agency shall
24 adopt rules governing the registration and approval of video
25 lottery terminal providers. The rules at a minimum must require the
26 application and any other form or document submitted to the
27 comptroller and a tribal gaming agency by or on behalf of the

1 applicant to determine qualification under this section to be sworn
2 to or affirmed before an officer qualified to administer oaths. The
3 applicant must provide the following information:

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

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

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

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

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

15 (6) if the applicant is incorporated under laws other
16 than the laws of this state, an irrevocable designation by the
17 applicant of the secretary of state as resident agent for service of
18 process and notice in accordance with the laws of this state;

19 (7) a list of all businesses or organizations in this
20 state in which the applicant has any financial interest and the
21 details of that financial interest, including all arrangements
22 through which a person directly or indirectly receives any portion
23 of the profits of the video lottery terminal provider and
24 indebtedness between the license holder and any other person, other
25 than a regulated financial institution, in excess of \$5,000;

26 (8) a list of all affiliated businesses or
27 corporations in which the applicant or an officer, director, or

1 substantial interest-holder of the applicant, either directly or
2 indirectly, owns or controls as a sole proprietor or partner more
3 than 10 percent of the voting stock of a publicly traded
4 corporation;

5 (9) a list of all businesses or corporations licensed
6 to conduct gambling activities or to supply gambling-related
7 equipment, supplies, or services in which the applicant or an
8 officer, director, or substantial interest-holder of the applicant
9 has any interest;

10 (10) a list of all jurisdictions in which the
11 applicant or an officer, director, or substantial interest-holder
12 of the applicant has been licensed, registered, qualified, or
13 otherwise approved for gambling-related activities during the
14 preceding 10 years from the date of the filing of the application;

15 (11) a statement indicating whether the applicant or
16 an officer, director, or substantial interest-holder of the
17 applicant has ever had a license, registration, qualification, or
18 other approval for gambling-related activities denied, revoked, or
19 suspended by any jurisdiction or has been fined or otherwise
20 required to pay penalties or monetary forfeitures for
21 gambling-related activities in any jurisdiction, including all
22 related details; and

23 (12) a statement acknowledging that the applicant will
24 make available for review at the time and place requested by the
25 tribal gaming agency or by the comptroller all records related to
26 the ownership or operation of the business.

27 (e) A tribal gaming agency and the comptroller may require

1 the following information from an applicant:

2 (1) personal financial and personal history records of
3 all substantial interest-holders;

4 (2) all records related to the scope of activity,
5 including sales of product, purchases of raw materials and parts,
6 and any contracts, franchises, patent agreements, or similar
7 contracts or arrangements related to manufacturing or distributing
8 video lottery terminals; and

9 (3) records related to any financial or management
10 control of or by customers and suppliers.

11 (f) The applicant must demonstrate the ability to comply
12 with all manufacturing, quality control, and operational
13 restrictions imposed on authorized video lottery equipment,
14 patented or otherwise restricted video lottery games, or other
15 video lottery equipment that the applicant seeks to manufacture or
16 distribute for use in this state. The registration process must
17 include an on-site review of the applicant's manufacturing
18 equipment and process for each separate type of authorized video
19 lottery equipment to ensure capability to comply with all
20 regulatory requirements of this chapter or rules adopted under this
21 chapter.

22 (g) An applicant, not later than the 10th day after the date
23 of the change, shall notify the applicable tribal gaming agency and
24 the comptroller of any change in the information submitted on or
25 with the application form, including changes that occur after the
26 registration or other approval has been granted by the comptroller
27 or tribal gaming agency.

1 (h) The applicant shall comply with all federal and state
2 laws, local ordinances, and rules and where applicable, tribal laws
3 and regulations.

4 (i) An applicant seeking registration under this section
5 must pay a nonrefundable application fee in the amount prescribed
6 by comptroller rule that is sufficient to pay the comptroller's
7 costs of administering this section. An applicant seeking approval
8 under this section must pay a nonrefundable application fee in the
9 amount prescribed by tribal gaming agency rule that is sufficient
10 to pay the costs to the tribal gaming agency of administering this
11 section. Application fees paid under this subsection shall be
12 retained by the agency or comptroller, as applicable, to defray
13 costs incurred in the administration and enforcement of this
14 chapter relating to the operation of video lottery terminals.

15 Sec. 2004.152. LICENSING OF VIDEO LOTTERY RETAILERS AND
16 VIDEO LOTTERY MANAGERS. (a) Except as provided by a gaming
17 agreement, a person may not own or operate a video lottery terminal
18 if the person does not satisfy the requirements of this section and
19 is not:

20 (1) licensed by a tribal gaming agency to act on behalf
21 of the Indian tribe; and

22 (2) licensed by the comptroller.

23 (b) An officer, partner, director, key employee,
24 substantial interest-holder, video lottery game operation
25 employee, and owner of video lottery game operations must be
26 eligible and maintain eligibility in accordance with this chapter
27 to be involved in video lottery games in this state.

1 (c) An applicant for a tribal gaming agency license must
2 submit a nonrefundable application processing fee in the amount
3 prescribed by tribal gaming agency rule that is sufficient and
4 reasonable to pay the costs of determining the applicant's
5 eligibility. An applicant for a license issued by the comptroller
6 must submit a nonrefundable application processing fee in the
7 amount prescribed by comptroller rule that is sufficient and
8 reasonable to pay the costs of determining the applicant's
9 eligibility. An application may not be processed until the
10 applicant provides the nonrefundable application fee.

11 (d) An applicant for a tribal gaming agency issued license
12 under this section must apply to the tribal gaming agency under
13 rules adopted by the tribal gaming agency, provide the information
14 necessary to determine the applicant's eligibility for a license,
15 and provide other information considered necessary by the tribal
16 gaming agency.

17 (e) An applicant for a license issued by the comptroller
18 under this section must apply to the comptroller under rules
19 adopted by the comptroller, provide the information necessary to
20 determine the applicant's eligibility for a license, and provide
21 other information considered necessary by the comptroller.

22 (f) An applicant for a license under this section must:

23 (1) be one of the three federally recognized Indian
24 tribes with trust lands within the external boundaries of this
25 state;

26 (2) have a valid and executed contract with a person
27 that satisfies the requirements of Subdivision (1) to act as a video

1 lottery manager for the person subject to licensing under this
2 chapter; or

3 (3) demonstrate to the comptroller's satisfaction and
4 to the tribal gaming agency's satisfaction that the applicant seeks
5 to act as a video lottery retailer or manager for a federally
6 recognized Indian tribe that has entered into a gaming agreement
7 with this state that is in effect and governs the regulation of
8 video lottery terminals on Indian lands in this state.

9 (g) An applicant for a tribal gaming agency issued license
10 has the burden of proving qualification for a license by clear and
11 convincing evidence. In addition to satisfying minimum
12 requirements established by tribal gaming agency rules, an
13 applicant for a tribal gaming agency issued license must:

14 (1) be a person of good character, honesty, and
15 integrity;

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

25 (3) if applying for a new license, provide
26 fingerprints for a criminal records evaluation by the Department of
27 Public Safety or other law enforcement agency, including

1 fingerprints for each person required to be named in an
2 application, accompanied by a signed authorization for the release
3 of information to the tribal gaming agency and comptroller by the
4 Department of Public Safety and the Federal Bureau of
5 Investigation;

6 (4) not have been convicted of an offense under this
7 chapter or of any crime related to theft, bribery, gambling, or
8 involving moral turpitude;

9 (5) demonstrate adequate business probity,
10 competence, experience, and financial stability as defined by the
11 tribal gaming agency;

12 (6) demonstrate adequate financing for the operation
13 of the facility at which the video lottery terminals will be
14 operated by disclosing all financing or refinancing arrangements
15 for the purchase, lease, or other acquisition of video lottery
16 equipment in the degree of detail requested by the tribal gaming
17 agency, and the agency shall determine whether the financing is
18 from a source that meets the requirements of this section and is
19 adequate to support the successful performance of the duties and
20 responsibilities of the license holder;

21 (7) when applying for a new license or renewing a
22 license under this chapter, present evidence to the tribal gaming
23 agency and to the comptroller of the existence and terms of any
24 agreement regarding the proceeds from the operation of video
25 lottery terminals;

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

1 (9) provide all information, including financial data
2 and documents, consents, waivers, providers of surety and
3 insurance, and any other materials requested by the tribal gaming
4 agency and the comptroller for purposes of determining
5 qualifications for a license;

6 (10) as part of its application, expressly waive any
7 and all claims against the comptroller, this state, and a member,
8 officer, employee, or authorized agent of the comptroller or this
9 state for damages resulting from any background investigation,
10 disclosure, or publication relating to an application for a license
11 issued by the comptroller; and

12 (11) as part of its application, expressly waive any
13 and all claims against the tribal gaming agency, the tribe, and a
14 member, officer, employee, or authorized agent of the agency or the
15 tribe for damages resulting from any background investigation,
16 disclosure, or publication relating to an application for a tribal
17 gaming agency license.

18 (h) An application, registration, or disclosure form and
19 any other document submitted to the tribal gaming agency or
20 comptroller by or on behalf of the applicant for purposes of
21 determining qualification for a license must be sworn to or
22 affirmed before an officer qualified to administer oaths.

23 (i) An applicant who knowingly fails to reveal any fact
24 material to qualification for a license, finding of suitability, or
25 other approval or who knowingly submits false or misleading
26 material information is ineligible for a license under this
27 section.

1 (j) An applicant for a facility site for a video lottery
2 terminal establishment must ensure that the facility will comply
3 with all applicable building codes and rules of the tribal gaming
4 agency. A video lottery terminal establishment shall provide
5 office space for the comptroller sufficient for at least one
6 comptroller employee.

7 (k) An applicant or license holder must provide information
8 as required by tribal gaming agency and comptroller rule relating
9 to the applicant's or license holder's video lottery terminal
10 establishment and update the information at least annually.

11 (l) An applicant shall notify the tribal gaming agency and
12 the comptroller of any change in the application information for a
13 license or renewal of a license not later than the 10th day after
14 the date of the change, except that a publicly traded corporation or
15 other business association or entity applicant is not required to
16 notify the agency and comptroller of a transfer by which any person
17 directly or indirectly becomes the beneficial owner of less than 10
18 percent of the stock of the corporation or association.

19 (m) Unless suspended or revoked, a license, other than a
20 video lottery retailer license, issued under this chapter expires
21 on the date specified in the license, which may not be later than
22 the fifth anniversary of the date of issuance. To be eligible for
23 renewal of a license, an applicant must satisfy all licensing
24 requirements under this chapter.

25 (n) An application to receive or renew a license or to be
26 found suitable constitutes a request for a determination of the
27 applicant's general character, integrity, and ability to

1 participate or engage in or be associated with the operation of
2 video lottery terminals. Any written or oral statement made in the
3 course of an official tribal gaming agency or comptroller
4 proceeding or investigative activities related to an application
5 for licensing, registration, or other approval under this chapter,
6 by any member or agent or any witness testifying under oath that is
7 relevant to the purpose of the proceeding, is absolutely privileged
8 and does not impose liability for defamation or constitute a ground
9 for recovery in any civil action.

10 (o) A tribal gaming agency or the comptroller by rule may
11 establish other qualifications for a license under this section the
12 agency or comptroller determines are in the public interest and
13 consistent with the declared policy of this state.

14 (p) A tribal gaming agency or the comptroller may require a
15 suitability finding for any person doing business with or in
16 relation to the operation of video lottery terminals who is not
17 otherwise required to obtain a license or registration from the
18 agency for the person's video lottery-related business operations.

19 Sec. 2004.153. AUTHORITY TO ISSUE PROVISIONAL LICENSES.

20 (a) A tribal gaming agency and the comptroller may establish a
21 provisional license or other classes of licenses necessary to
22 regulate and administer the quantity and type of video lottery
23 games provided at each video lottery terminal establishment.

24 (b) A tribal gaming agency may not issue a provisional
25 license to a person or entity that the comptroller has informed the
26 agency to be unsuitable for a license. The agency shall suspend a
27 provisional license on notice by the comptroller that the

1 comptroller concludes the person or entity is not suitable for a
2 license.

3 Sec. 2004.154. LICENSE TERM. Unless suspended or revoked,
4 a license issued by the comptroller or a tribal gaming agency
5 expires on the date specified in the license, which may not be later
6 than the fifth anniversary of its date of issuance.

7 Sec. 2004.155. COMPTROLLER AUTHORITY TO INVESTIGATE. The
8 comptroller is entitled to conduct an investigation of and is
9 entitled to obtain criminal history record information maintained
10 by the Department of Public Safety, the Federal Bureau of
11 Investigation identification division, or another law enforcement
12 agency to assist in the investigation of:

13 (1) a person required to be named in a tribal gaming
14 agency license application;

15 (2) a video lottery manager, video lottery retailer,
16 video lottery terminal provider, or video lottery central system
17 provider or prospective video lottery manager, video lottery
18 retailer, video lottery terminal provider, or video lottery central
19 system provider;

20 (3) an employee of a video lottery terminal
21 establishment, video lottery manager, video lottery retailer,
22 video lottery terminal provider, or video lottery central system
23 provider or prospective video lottery manager, video lottery
24 retailer, video lottery terminal provider, or video lottery central
25 system provider, if the employee is or will be directly involved in
26 video lottery operations;

27 (4) a person who manufactures or distributes video

1 lottery equipment or supplies, or a representative of a person who
2 manufactures or distributes video lottery equipment or supplies
3 offered to a video lottery terminal establishment on Indian lands;

4 (5) a person who has submitted a written bid or
5 proposal to the tribe or tribal gaming agency in connection with the
6 procurement of goods or services by the tribe or agency, if the
7 amount of the bid or proposal exceeds \$500;

8 (6) a person who proposes to enter into or who has a
9 contract with the comptroller to supply goods or services to the
10 comptroller in connection with its oversight of video lottery
11 terminal establishments on Indian lands; or

12 (7) if a person described in Subdivisions (1) through
13 (6) is not an individual, an individual who:

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

15 (B) holds more than 10 percent of the stock in the
16 person;

17 (C) holds an equitable interest greater than 10
18 percent in the person;

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

21 (E) is the owner or lessee of a business that the
22 person conducts or through which the person will conduct video
23 lottery-related activities;

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

26 (G) participates in managing the affairs of the
27 person.

1 Sec. 2004.156. CRIMINAL HISTORY INVESTIGATION FOR VIDEO
2 LOTTERY. (a) Except as otherwise provided by this section and
3 Section 2004.103, a criminal history investigation of a video
4 lottery retailer, video lottery manager, video lottery terminal
5 provider, or video lottery central system provider is governed by
6 tribal gaming agency rules adopted under the gaming agreement in
7 effect.

8 (b) The Department of Public Safety, this state, the tribal
9 gaming agency of an Indian tribe with a gaming agreement in effect,
10 or a local law enforcement agency in this state, in accordance with
11 an interagency agreement with the comptroller, shall provide any
12 assistance requested by the comptroller in the administration and
13 enforcement of this chapter, including conducting background
14 investigations of a person seeking a tribal gaming agency or
15 comptroller license, registration, or other authorization required
16 under the gaming agreement in effect or of any person required to be
17 named in an application for a license, registration, or other
18 authorization under this chapter.

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

23 (d) Criminal history record information obtained by the
24 comptroller under this section may be disclosed only:

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

1 (2) to a tribal gaming agency consistent with a gaming
2 agreement in effect; or

3 (3) under a court order.

4 Sec. 2004.157. TRANSFER RESTRICTIONS. A tribal gaming
5 agency issued license, registration, or approval and a comptroller
6 issued license or registration are not transferable.

7 Sec. 2004.158. LICENSING, REGISTRATION, SUITABILITY,
8 QUALIFICATION, AND REGULATORY APPROVAL AS REVOCABLE PERSONAL
9 PRIVILEGES. (a) An applicant for a license, registration,
10 suitability, qualification, or other affirmative regulatory
11 approval under this chapter does not have any right to the license,
12 registration, suitability, or qualification, or the granting of the
13 approval sought. Any license, registration, suitability, or
14 qualification issued or other regulatory approval granted under
15 this chapter by a tribal gaming agency or by the comptroller is a
16 revocable privilege, and a holder of the privilege does not acquire
17 any vested right in or under the privilege.

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

27 (c) The following acts void the license, registration,

1 suitability, qualification, or other regulatory approval of the
2 holder unless approved in advance by the comptroller or tribal
3 gaming agency, as applicable:

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

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

11 [Sections 2004.159-2004.200 reserved for expansion]

12 SUBCHAPTER E. VIDEO LOTTERY SYSTEM OPERATIONS

13 Sec. 2004.201. VIDEO LOTTERY TERMINAL ESTABLISHMENT;
14 PROCUREMENT OF VIDEO LOTTERY TERMINALS. (a) An Indian tribe shall
15 provide all necessary capital investments and required
16 improvements at a video lottery terminal establishment on the
17 tribe's Indian lands.

18 (b) A tribal gaming agency 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 chapter.

22 (c) A video lottery terminal provider may not distribute a
23 video lottery terminal or other video lottery equipment for
24 placement at a video lottery terminal establishment in this state
25 unless the video lottery terminal has been approved by a tribal
26 gaming agency. Only a video lottery terminal provider registered
27 with the tribal gaming agency and the comptroller may apply for

1 approval of a video lottery terminal or other video lottery
2 equipment. At least 10 days before the date of shipment to a
3 location in this state, a video lottery terminal provider shall
4 file a report with the tribal gaming agency and the comptroller
5 itemizing all video lottery terminals and other video lottery
6 equipment to be provided to a video lottery retailer or video
7 lottery manager in the shipment.

8 (d) A video lottery terminal provider shall submit two
9 copies of terminal illustrations, schematics, block diagrams,
10 circuit analysis, technical and operation manuals, and any other
11 information requested by a tribal gaming agency or the comptroller
12 for the purpose of analyzing and testing the video lottery terminal
13 or other video lottery equipment.

14 (e) A tribal gaming agency and the comptroller may require a
15 working model of a video lottery terminal to be provided. At the
16 sole discretion of the agency or comptroller, this requirement may
17 be waived if the video lottery terminal provider can provide a
18 certification by an approved independent testing laboratory that
19 the video lottery terminal is compatible and functions as required
20 by the agency or comptroller.

21 (f) The video lottery terminal provider is responsible for
22 the assembly and installation of all video lottery terminals and
23 other video lottery equipment. The video lottery terminal provider
24 and video lottery retailer or video lottery manager may not change
25 the assembly or operational functions of a video lottery terminal
26 authorized by a tribal gaming agency for placement in this state
27 unless a request for modification of an existing video lottery

1 terminal prototype is approved by the agency. The request must
2 contain:

- 3 (1) a detailed description of the type of change;
4 (2) a detailed description of the reasons for the
5 change; and
6 (3) technical documentation of the change.

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

26 (h) The tribal gaming agency shall adopt rules for approval
27 of video lottery terminals, including requirements for video

1 lottery game tickets. An agency approved video lottery terminal
2 must meet the following minimum specifications:

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

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

14 (3) the main logic boards of all electronic storage
15 mediums must be located in a separate compartment in the video
16 lottery terminal that is locked and sealed by the tribal gaming
17 agency;

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

24 (5) communication equipment and devices must be
25 installed to enable each video lottery terminal to communicate with
26 an authorized video lottery central system through the use of a
27 communications protocol which must include information retrieval

1 and programs to activate and disable the terminal provided by the
2 tribal gaming agency to each registered video lottery terminal
3 provider; and

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

8 Sec. 2004.202. TRAVEL AND INVESTIGATION COSTS. The travel
9 and investigative expenses of the comptroller shall be paid from
10 revenue received from the appropriate Indian tribe as provided by
11 the gaming agreement with the tribe that is in effect.

12 Sec. 2004.203. CONSENT TO TRIBAL GAMING AGENCY AND
13 COMPTROLLER DETERMINATION. An application for a license,
14 registration, finding of suitability, qualification, or other
15 approval and any other factor attaching to an application under
16 this chapter and the rules adopted under this chapter constitutes a
17 request to the tribal gaming agency or comptroller, as applicable,
18 for a decision on the applicant's general suitability, character,
19 integrity, and ability to participate or engage in or be associated
20 with the lottery in the manner or position sought. By filing an
21 application with the tribal gaming agency or comptroller, the
22 applicant specifically consents to the agency's decision at the
23 agency's election or to the comptroller's decision at the
24 comptroller's election when the application, after filing, becomes
25 moot for any reason other than death.

26 Sec. 2004.204. ABSOLUTE AUTHORITY OF TRIBAL GAMING AGENCY
27 AND COMPTROLLER; AUTHORITY TO WAIVE REQUIREMENTS; EFFECT OF DENIAL.

1 (a) Subject to the oversight authority of the comptroller, a tribal
2 gaming agency has full and absolute power and authority to deny any
3 application or limit, condition, restrict, revoke, or suspend any
4 agency license, registration, or finding of suitability or
5 approval, and to fine any person licensed, registered, found
6 suitable, or approved for any cause deemed reasonable by the
7 agency.

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

22 Sec. 2004.205. LIMITATION ON OPERATION OF VIDEO LOTTERY
23 TERMINALS. (a) The hours of operation for video lottery terminals
24 are to be set by the video lottery terminal establishment, which may
25 provide for unlimited hours of operation, except that the tribal
26 gaming agency by rule may prescribe restrictions reasonably
27 necessary for accounting and collecting revenue generated by video

1 lottery terminal operations and performing other operational
2 services on the video lottery system.

3 (b) Communication between a video lottery central system
4 and each video lottery terminal must be continuous and on a
5 real-time basis as prescribed by the tribal gaming agency.

6 (c) Placement or movement of video lottery terminals in a
7 video lottery terminal establishment must be consistent with a
8 video lottery terminal establishment floor plan filed with the
9 tribal gaming agency.

10 (d) A video lottery terminal establishment must:

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

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

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

16 (4) promptly report all video lottery terminal
17 malfunctions and downtime;

18 (5) install, post, and display prominently any
19 material required by the tribal gaming agency;

20 (6) prohibit illegal gambling and any related
21 paraphernalia;

22 (7) supervise employees and activities to ensure
23 compliance with all applicable tribal gaming agency and comptroller
24 rules and this chapter;

25 (8) maintain continuous camera coverage of all aspects
26 of video lottery game operations, including video lottery
27 terminals; and

1 (9) maintain an entry log for each video lottery
2 terminal on the premises of the video lottery terminal
3 establishment and maintain and submit complete records on receipt
4 of each video lottery terminal on the premises as determined by the
5 tribal gaming agency.

6 (e) All transportation and movement of video lottery
7 terminals into or within this state is prohibited, except as
8 permitted by this chapter and approved by the tribal gaming agency.

9 (f) An obsolete video lottery terminal or a video lottery
10 terminal that is no longer in operation must be promptly reported to
11 the tribal gaming agency and the comptroller.

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

21 (h) The video lottery central system provider shall pay for
22 the installation and operation of tribal gaming agency approved
23 communication technology to provide real-time communication
24 between each video lottery terminal located on Indian lands and the
25 tribe-controlled video lottery central system.

26 (i) In addition to other requirements under this chapter
27 relating to video lottery, a video lottery terminal establishment

1 at all times shall:

2 (1) operate only video lottery terminals that are
3 distributed by a registered video lottery terminal provider and
4 provide a secure location for the placement, operation, and play of
5 the video lottery terminals;

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

8 (3) ensure that communication technology from the
9 video lottery central system to the video lottery terminals is
10 connected and prevent any person from tampering or interfering with
11 the operation of the connection;

12 (4) ensure that video lottery terminals are in the
13 sight and control of designated employees of the tribe and in the
14 sight of video cameras as required under this chapter;

15 (5) ensure that video lottery terminals are placed and
16 remain placed in the locations in the video lottery terminal
17 establishment that are consistent with the tribal gaming agency
18 approved floor plan;

19 (6) monitor video lottery terminals to prevent access
20 to or play by persons who are under 18 years of age or who are
21 visibly intoxicated;

22 (7) pay all credits won by a player on presentment of a
23 valid winning video lottery game ticket;

24 (8) conduct only the video lottery game advertising
25 and promotional activities consistent with criteria prescribed by
26 the tribal gaming agency, including prohibiting undue influence,
27 offensive language, and anything that would affect the integrity of

1 video lottery operation;

2 (9) install, post, and display prominently at the
3 licensed location redemption information and other informational
4 or promotional materials as required by the tribal gaming agency;

5 (10) maintain general liability insurance coverage
6 for the video lottery terminal establishment and all video lottery
7 terminals in the amounts required by the tribal gaming agency;

8 (11) assume liability for money lost or stolen from
9 any video lottery terminal; and

10 (12) annually submit an audited financial statement to
11 the comptroller in accordance with generally accepted accounting
12 principles.

13 Sec. 2004.206. TECHNICAL STANDARDS FOR VIDEO LOTTERY
14 EQUIPMENT. A tribal gaming agency by rule shall provide minimum
15 technical standards for video lottery equipment that may be
16 operated in this state.

17 Sec. 2004.207. INCIDENT REPORTS. A video lottery terminal
18 establishment shall record all unusual occurrences related to
19 gaming activity in a video lottery terminal establishment operated
20 by the retailer or manager. Each material incident shall be
21 assigned a sequential number and, at a minimum, the following
22 information must be recorded in a permanent record prepared in
23 accordance with tribal gaming agency rules to ensure the integrity
24 of the record:

25 (1) the number assigned to the incident;

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

27 (3) the nature of the incident;

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

2 (5) the name of the employee or other agent of the
3 video lottery terminal establishment who investigated the
4 incident.

5 Sec. 2004.208. EXCLUSION OF PERSONS. (a) A tribal gaming
6 agency shall compile a list of persons that a video lottery terminal
7 establishment must bar from a video lottery terminal establishment
8 based on a person's criminal history or association with criminal
9 offenders or because the person poses a threat to the integrity of
10 the lottery. The video lottery terminal establishment shall use
11 best efforts to exclude those persons from entry into the
12 establishment.

13 (b) A video lottery terminal establishment may exclude a
14 person for any reason not related to the person's race, sex,
15 national origin, physical disability, or religion.

16 (c) A person who believes the person may be playing video
17 lottery games on a compulsive basis may request that the person's
18 name be placed on a list compiled by the tribal gaming agency and
19 maintained separate and apart from the list compiled under
20 Subsection (a). All video lottery game employees shall receive
21 training in identifying players with a compulsive playing problem.
22 Signs and other materials shall be readily available to direct
23 compulsive players to agencies that offer appropriate counseling.

24 Sec. 2004.209. ACCOUNTING, FINANCIAL, AND OTHER REPORTING
25 PROCEDURES. (a) Not later than the fifth day after the date of
26 acquiring knowledge of any litigation relating to a video lottery
27 terminal establishment, including a criminal proceeding, involving

1 a matter related to character or reputation relevant to a person's
2 suitability under this chapter, an Indian tribe shall report the
3 litigation to the tribal gaming agency and to the comptroller.

4 (b) A tribal gaming agency by rule shall establish general
5 accounting and auditing requirements and internal control
6 standards for a video lottery terminal establishment.

7 (c) A video lottery terminal establishment shall keep a
8 database of video lottery terminal events. A tribal gaming agency
9 by rule shall determine what constitutes a video lottery terminal
10 event for purposes of this subsection.

11 Sec. 2004.210. EMPLOYEE REPORTING. (a) On or before the
12 15th day of each month, a video lottery terminal establishment
13 shall submit to the tribal gaming agency and to the comptroller an
14 employee report for the video lottery terminal establishment. The
15 report must provide for each employee of the retailer or manager the
16 employee's name, job title, date of birth, and social security
17 number.

18 (b) The employee report is confidential and may not be
19 disclosed except as provided for in Section 2004.055.

20 (c) A tribal gaming agency or the comptroller may conduct
21 criminal history investigations for employees of video lottery
22 terminal establishments and all persons and entities that provide
23 equipment and services to video lottery terminal establishments.

24 (d) The tribal gaming agency shall prohibit an employee from
25 performing any act relating to video lottery terminals if the
26 tribal gaming agency finds that an employee has:

27 (1) committed, attempted, or conspired to do any act

1 prohibited by this chapter;

2 (2) concealed or refused to disclose any material fact
3 in any investigation by the tribal gaming agency or the
4 comptroller;

5 (3) committed, attempted, or conspired to commit
6 larceny or embezzlement;

7 (4) been convicted in any jurisdiction of an offense
8 involving or relating to gambling;

9 (5) accepted employment in a position for which the
10 employee is required to have tribal gaming agency approval after
11 approval was denied for a reason involving personal unsuitability
12 or after failing to apply for a license or approval on agency
13 request;

14 (6) wilfully defied any legislative investigative
15 committee or other officially constituted body acting on behalf of
16 the United States or any state, county, or municipality, or any
17 tribal gaming agency acting pursuant to its authority under a
18 gaming agreement in effect, that sought to investigate alleged or
19 potential crimes relating to gaming, corruption of public
20 officials, or any organized criminal activities; or

21 (7) been convicted of any felony or any crime
22 involving moral turpitude.

23 (e) A tribal gaming agency may prohibit an employee from
24 performing any act relating to video lottery terminals for any
25 reason the agency finds appropriate, including a refusal by a
26 regulatory authority to issue a license, permit, or other approval
27 for the employee to engage in or be involved with the lottery or

1 with regulated gaming or pari-mutuel wagering in any jurisdiction,
2 or a revocation or suspension of any gaming or wagering license,
3 permit, or approval.

4 (f) In this section, "employee" includes any person
5 connected directly with or compensated by an applicant or license
6 holder as an agent, personal representative, consultant, or
7 independent contractor for activities directly related to video
8 lottery operations.

9 Sec. 2004.211. REPORT OF VIOLATIONS. A person who holds a
10 license or registration under this chapter shall immediately report
11 to the comptroller or tribal gaming agency a violation or suspected
12 violation of this chapter or a rule adopted under this chapter by
13 any license or registration holder, by an employee of a license or
14 registration holder, or by any person on the premises of a video
15 lottery terminal establishment, whether or not associated with the
16 license or registration holder.

17 Sec. 2004.212. SECURITY. (a) A video lottery terminal
18 establishment shall comply with the following security procedures:

19 (1) all video lottery terminals must be continuously
20 monitored through the use of a closed-circuit television system
21 that records activity for a continuous 24-hour period and all video
22 tapes or other media used to store video images shall be retained
23 for at least 30 days and made available to the tribal gaming agency
24 or the comptroller on request;

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

27 (3) a video lottery terminal establishment must submit

1 for tribal gaming agency approval a security plan and a floor plan
2 of the area where video lottery terminals are to be operated showing
3 video lottery terminal locations and security camera mount
4 locations; and

5 (4) each video lottery terminal establishment shall
6 employ at least the minimum number of private security personnel
7 the tribal gaming agency determines is necessary to provide for
8 safe and approved operation of the video lottery terminal
9 establishment and the safety and well-being of the players.

10 (b) Private security personnel must be present during all
11 hours of operation at each video lottery terminal establishment.

12 (c) An agent or employee of the tribal gaming agency, the
13 comptroller, or the Department of Public Safety or any other law
14 enforcement personnel may be present in public areas of a video
15 lottery terminal establishment at any time.

16 (d) The tribal gaming agency may adopt rules to impose
17 additional surveillance and security requirements related to video
18 lottery terminal establishments and the operation of video lottery
19 terminals.

20 Sec. 2004.213. VIDEO LOTTERY TERMINAL ESTABLISHMENT
21 VISITS. The comptroller or the comptroller's representative, after
22 displaying appropriate identification and credentials, has the
23 free and unrestricted right to enter the premises of a video lottery
24 terminal establishment and to enter any other locations involved in
25 operation or support of video lottery at all times to examine the
26 systems and to inspect and copy the records of an Indian tribe
27 pertaining to the operation of video lottery. A tribal gaming

1 agency shall establish protocol for an Indian tribe to contact the
2 comptroller and verify that such credentials are valid and that
3 such presence is authorized by the comptroller. Failure or
4 inability of the comptroller to provide such verification is
5 grounds for denial of access.

6 Sec. 2004.214. INDEMNIFICATION, INSURANCE, AND BONDING
7 REQUIREMENTS; PATRON DISPUTES. (a) A license or registration
8 holder shall indemnify and hold harmless this state, the
9 comptroller, and all officers and employees of this state and the
10 comptroller from any and all claims that may be asserted against a
11 license holder, the comptroller, this state, and the members,
12 officers, employees, and authorized agents of this state or the
13 comptroller arising from the license holder's participation in the
14 video lottery system authorized under this chapter.

15 (b) Surety and insurance required under this chapter shall
16 be issued by companies or financial institutions financially rated
17 "A" or better as rated by A.M. Best Company or another rating
18 organization designated by the tribal gaming agency and duly
19 licensed, admitted, and authorized to conduct business in this
20 state, or by other surety approved by the tribal gaming agency and
21 the comptroller.

22 (c) The comptroller shall be named as the obligee in each
23 required surety and as an additional insured in each required
24 insurance contract.

25 (d) An Indian tribe may be self-insured with regard to video
26 lottery terminal operations under this section, but only on
27 approval of the comptroller. The comptroller may allow for

1 self-insurance if the comptroller is satisfied that the coverage
2 meets or exceeds the coverage otherwise available and is satisfied
3 that the solvency of the insurance fund meets or exceeds insurance
4 industry standards.

5 (e) A tribal gaming agency by rule shall establish minimum
6 insurance coverage requirements for a video lottery terminal
7 establishment.

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

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

20 (2) if the dispute arises on Indian lands and the fair
21 market value of the prize is \$1,000 or more, the dispute shall be
22 resolved by the tribal gaming agency, which shall establish rules
23 consistent with the rules of the comptroller.

24 (g) A player has no further direct appeal from the decision
25 of the tribal gaming agency under Subsection (f).

26 (h) If the comptroller believes that a tribal gaming agency
27 acted in violation of Subsection (f)(2), the comptroller may seek

1 relief, including specific performance under the dispute
2 resolution provisions of the gaming agreement in effect. Nothing
3 in this chapter shall be interpreted to confer standing on the
4 patron or player in any action against the Indian tribe or tribal
5 gaming agency.

6 (i) A court of this state does not have jurisdiction to
7 review the decision of the tribal gaming agency resolving a dispute
8 between a patron or player and a video lottery retailer, video
9 lottery manager, or video lottery terminal provider.

10 Sec. 2004.215. COLLECTION OF REVENUE; ACCOUNTING AND
11 DISTRIBUTION OF NET TERMINAL INCOME. (a) The comptroller shall
12 deposit funds received under this chapter to the state video
13 lottery account.

14 (b) For the first two years this chapter is in effect, the
15 comptroller is authorized to expend an amount not to exceed \$5
16 million from the state lottery account to perform the comptroller's
17 oversight functions under this chapter. From revenue received
18 under a gaming agreement in effect, the comptroller is hereby
19 appropriated the amount necessary to reimburse the state lottery
20 account for the total amount of funds from that account used to
21 perform those functions.

22 (c) Two percent of the net terminal income distributed to
23 this state under Subsection (e) shall be allocated to the
24 comptroller to defray expenses incurred in administering this
25 chapter related to video lottery including expenses incurred to
26 oversee tribal gaming agencies. All money allocated to the
27 comptroller under this subsection may be retained by the

1 comptroller to defray expenses of administering this chapter
2 related to video lottery.

3 (d) [RESERVED]

4 (e) This state acknowledges that a principal goal of federal
5 Indian policy is to promote tribal economic development, tribal
6 self-sufficiency, and strong tribal government. Tribes are
7 required by federal and tribal law to use revenue generated from
8 gaming for traditional governmental purposes such that 100 percent
9 of tribal gaming revenues are taxed. Net terminal income derived
10 from the operation of video lottery terminals on Indian lands under
11 a gaming agreement authorized under this chapter shall be
12 distributed as set forth in the gaming agreement, provided that the
13 agreement must provide that this state shall receive not more than
14 _____ percent of the net terminal income.

15 (f) The comptroller shall require an Indian tribe to
16 establish a separate electronic funds transfer account for
17 depositing money from video lottery terminal operations, making
18 payments to the comptroller or its designee, and receiving payments
19 from the comptroller or its designee. The tribe may not make
20 payments to the comptroller in cash. As authorized by the
21 comptroller, the Indian tribe may make payments to the comptroller
22 by cashier's check.

23 (g) The video lottery terminal establishment at least
24 weekly shall transfer this state's share of net terminal income of a
25 video lottery terminal establishment to the comptroller through the
26 electronic transfer of the funds. The comptroller by rule shall
27 establish the procedures for depositing money from video lottery

1 terminal operations into electronic funds transfer accounts, as
2 well as procedures regarding the handling of money from video
3 lottery terminal operations. This state's share of net terminal
4 income from video lottery terminal operations shall be held in
5 trust for the state.

6 (h) Unless otherwise directed by the comptroller, a video
7 lottery retailer or a video lottery manager shall maintain in its
8 account this state's share of the net terminal income from the
9 operation of video lottery terminals, to be electronically
10 transferred by the comptroller on dates established by the
11 comptroller. On a license holder's failure to maintain this
12 balance, the comptroller may direct the tribal gaming agency to
13 disable all of a license holder's video lottery terminals until
14 full payment of all amounts due is made. Interest shall accrue on
15 any unpaid balance at a rate consistent with the amount charged
16 under Section 111.060, Tax Code. The interest shall begin to accrue
17 on the date payment is due to the comptroller.

18 (i) In the tribal gaming agency's sole discretion, rather
19 than disable a license holder's video lottery terminals, the agency
20 may elect to impose a fine on a license holder in an amount
21 determined by the agency. If the license holder fails to remedy the
22 violation, including payment of any amounts assessed by or due to
23 this state, within 10 days, the agency may disable the license
24 holder's video lottery terminals or use any other means for
25 collection.

26 (j) The tribe is solely responsible for resolving any income
27 discrepancies between actual money collected and the net terminal

1 income reported by the video lottery central system. Unless an
2 accounting discrepancy is resolved in favor of the tribe, the
3 comptroller may not make any credit adjustments. Any accounting
4 discrepancies that cannot otherwise be resolved shall be resolved
5 in favor of the comptroller.

6 (k) A tribe shall remit payment as directed by the
7 comptroller if the electronic transfer of funds is not operational
8 or the comptroller notifies the tribe that other remittance is
9 required. The tribe shall report this state's share of net terminal
10 income and remit the amount generated from the terminals during the
11 reporting period.

12 (l) The comptroller has the right to examine all accounts,
13 bank accounts, financial statements, and records in a tribe's
14 possession or control or in which the tribe has an interest, and the
15 tribe shall authorize and direct all third parties in possession or
16 in control of the accounts or records to allow examination of any of
17 those accounts or records by the comptroller.

18 (m) The tribe shall furnish to the comptroller all
19 information and bank authorizations required to facilitate the
20 timely transfer of money to the comptroller. The tribe must provide
21 the comptroller advance notice of any proposed account changes in
22 information and bank authorizations to assure the uninterrupted
23 electronic transfer of funds. The comptroller is not responsible
24 for any interruption or delays in the transfer of funds. The tribe
25 is responsible for any interruption or delay in the transfer of
26 funds.

27 Sec. 2004.216. LIABILITY OF TRIBE FOR REVENUE SHARE. An

1 Indian tribe is liable to the comptroller for the state's share of
2 net terminal income reported by the video lottery central system.
3 Net terminal income received by the tribe shall be held in trust for
4 the benefit of this state before delivery of the state's share to
5 the comptroller or electronic transfer to the state treasury, and
6 the tribe is liable to the comptroller for the full amount of the
7 money held in trust.

8 Sec. 2004.217. PRIZES. (a) Payment of prizes is the sole
9 and exclusive responsibility of a video lottery terminal
10 establishment.

11 (b) Nothing in this chapter limits the authority of a video
12 lottery terminal establishment to provide promotional prizes in
13 addition to prize payouts regulated by the tribal gaming agency.

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

23 Sec. 2004.218. LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO
24 LIABILITY OF STATE OR TRIBE FOR ENFORCEMENT. (a) This state does
25 not waive its sovereign immunity by negotiating gaming agreements
26 with Indian tribes for the operation of video lottery terminals or
27 other video lottery games under this chapter. An actor or agent on

1 behalf of this state does not have any authority to waive the
2 state's sovereign immunity absent an express legislative grant of
3 the authority. The only waiver of sovereign immunity relative to
4 video lottery terminal operations is that expressly provided for in
5 this section.

6 (b) With regard to video lottery terminal operations on
7 Indian lands, this state consents to the jurisdiction of the
8 district court of the United States for the county where the Indian
9 lands are located solely for the purpose of resolving disputes
10 arising from a gaming agreement authorized under this chapter for
11 declaratory or injunctive relief or contract damages of \$100,000 or
12 more. Any disputes relating to damages or other awards valued at
13 less than \$100,000 shall be arbitrated under the rules of the
14 American Arbitration Association.

15 (c) All financial obligations of the tribe are payable
16 solely out of the income, revenues, and receipts of the video
17 lottery terminal establishments and are subject to statutory
18 restrictions and appropriations.

19 (d) The tribe, video lottery terminal establishment, and
20 the tribal gaming agency are not liable if performance by the tribe,
21 video lottery terminal establishment, or agency is compromised or
22 terminated by acts or omissions of the legislature or of the state
23 or federal judiciary.

24 (e) This state and the comptroller are not liable related to
25 any enforcement of this chapter.

26 Sec. 2004.219. ABSOLUTE PRIVILEGE OF REQUIRED
27 COMMUNICATIONS AND DOCUMENTS. (a) Any communication or document

1 of a video lottery central system provider, video lottery terminal
2 provider, video lottery retailer, or video lottery manager, an
3 applicant, or a license or registration holder that is made or
4 transmitted to the comptroller or any of the comptroller's
5 employees, or to the tribal gaming agency or any of its employees,
6 to comply with any law or the rules of the agency, to comply with a
7 subpoena issued by the agency or the comptroller, or to assist the
8 agency, comptroller, or designee in the performance of their
9 respective duties is absolutely privileged, does not impose
10 liability for defamation, and is not a ground for recovery in any
11 civil action.

12 (b) If the document or communication contains any
13 information that is privileged under state law, the privilege is
14 not waived or lost because the document or communication is
15 disclosed to the tribal gaming agency or any of the agency's
16 employees or the comptroller or any of the comptroller's employees.
17 The agency and the comptroller shall maintain all privileged
18 information, documents, and communications in a secure place as
19 determined in the sole discretion of each accessible only to
20 members of the agency and authorized agency employees or the
21 comptroller and authorized comptroller employees.

22 Sec. 2004.220. PROHIBITED GAMES. (a) An Indian tribe may
23 not establish or operate a lottery game in which the winner is
24 chosen on the basis of the outcome of a sports event.

25 (b) The operation of any game using a video lottery machine,
26 slot machine, or other gambling device that is not connected to an
27 authorized video lottery central system as required by this chapter

1 is prohibited.

2 Sec. 2004.221. PLAYER AGREEMENT TO ABIDE BY RULES AND
3 INSTRUCTIONS. By purchasing a ticket in a particular video lottery
4 game or participating as a player in a video lottery game, a player
5 agrees to abide by and be bound by the tribal gaming agency's rules
6 and instructions, including the rules or instructions applicable to
7 the particular video lottery game involved. The player also
8 acknowledges that the determination of whether the player is a
9 valid winner is subject to:

10 (1) the tribal gaming agency's rules, instructions,
11 and claims procedures, including those developed for the particular
12 video lottery game involved;

13 (2) any validation tests established by the tribal
14 gaming agency for the particular video lottery game involved; and

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

17 [Sections 2004.222-2004.250 reserved for expansion]

18 SUBCHAPTER F. GAMING AGREEMENT

19 Sec. 2004.251. VIDEO LOTTERY GAMES BY INDIAN TRIBES
20 AUTHORIZED. Notwithstanding any other law, an Indian tribe may
21 operate video lottery games and video lottery terminals as
22 authorized by this chapter pursuant to a gaming agreement with the
23 governor.

24 Sec. 2004.252. MODEL GAMING AGREEMENT. Not later than the
25 30th day after the date the governor receives a request from the
26 Ysleta del Sur Pueblo Indian tribe, the Alabama-Coushatta Indian
27 tribe, or the Kickapoo Traditional Tribe of Texas, accompanied by

1 or in the form of a duly enacted resolution of the tribe's governing
2 body, to enter into a gaming agreement under this section, the
3 governor shall execute a gaming agreement containing the terms set
4 forth in the model gaming agreement pursuant to this chapter. If
5 the tribal resolution is accompanied with a gaming agreement that
6 is the same in all material respects as the provisions set forth in
7 this subchapter, the governor's execution of the agreement is a
8 ministerial act. If the governor has not executed the agreement
9 prior to the 31st day after receiving the request, the gaming
10 agreement shall be deemed as having been executed by the governor.
11 If the tribal resolution is accompanied with a gaming agreement
12 that varies in any material aspect with the provisions set forth in
13 this subchapter, the governor's execution is a discretionary act
14 that may not be exercised if the gaming agreement does not, at a
15 minimum, include the provisions set forth in this subchapter.

16 Sec. 2004.253. RESTRICTIONS ON VIDEO LOTTERY GAMES BY
17 INDIAN TRIBES. (a) To operate video lottery games under this
18 chapter, an Indian tribe must be an Indian tribe as listed by the
19 United States secretary of the interior under 25 U.S.C. Section
20 479a-1 on or before January 1, 1998, and must on or before January
21 1, 1998, have had Indian lands in trust status within the boundaries
22 of this state. At no time may there be more than three Indian tribes
23 operating video lottery games on Indian lands in this state.

24 (b) An Indian tribe may operate video lottery games under
25 this chapter only on Indian lands as specifically defined by this
26 chapter.

27 (c) An Indian tribe may not operate video lottery games in a

1 manner that violates any provision of this chapter or the
2 applicable tribal gaming code. The comptroller has independent
3 jurisdiction to sanction violations of this chapter or violations
4 of the gaming agreement against any person or entity other than an
5 Indian tribe. Alleged violations by the tribe or tribal gaming
6 agency are governed by the dispute resolution provisions contained
7 in the gaming agreement as set forth in this subchapter.

8 Sec. 2004.254. GAMING AGREEMENT: REQUIRED PROVISIONS. A
9 gaming agreement entered into under this subchapter shall contain
10 the following provisions:

11 GAMING AGREEMENT

12 GOVERNING VIDEO LOTTERY TERMINAL OPERATIONS

13 between the [Name of Tribe]

14 and the STATE OF TEXAS

15 This gaming agreement between the [as applicable: the
16 Alabama-Coushatta Tribes of Texas or Ysleta del sur Pueblo (Tigua
17 Tribe) or Traditional Kickapoo Tribe of Texas] shall govern gaming
18 activities occurring on the Tribe's Indian lands, consistent with
19 State law generally and Chapter 2004, Texas Occupations Code,
20 specifically, wherein the Tribe and the State of Texas agree to the
21 following:

22 Art. 1. The comptroller of public accounts of the State of
23 Texas ("comptroller") may inspect all public and nonpublic areas of
24 the premises where the Tribe operates video lottery games or other
25 gaming activity at any time.

26 Art. 2. The Tribe consents to an annual audit by the
27 comptroller or an auditor selected by the comptroller of the

1 Tribe's video lottery game operations.

2 Art. 3. The comptroller may examine and review all
3 financial records of the Tribe's video lottery game operations at
4 any reasonable time. The comptroller shall have jurisdiction
5 concurrent with the Tribal Gaming Agency to enforce violations of
6 Chapter 2004, Texas Occupations Code.

7 Art. 4. The Tribe shall establish a Tribal Gaming Agency.
8 The agency shall operate independently of the gaming operation and
9 shall adopt and impose licensing standards and operational
10 procedures to protect the fairness, honesty, and integrity of the
11 gaming which occurs on the Tribe's Indian lands. The standards
12 adopted by the Tribal Gaming Agency shall meet or exceed the
13 standards required by Chapter 2004, Texas Occupations Code. The
14 agency shall use the Tribe's best efforts to adopt rules and
15 procedures reasonable and necessary to protect the fairness,
16 honesty, and integrity of the gaming which occurs on the Tribe's
17 Indian lands and shall vigorously enforce those rules and
18 procedures. If the comptroller finds that the agency is not
19 fulfilling its obligations under this agreement, or otherwise, the
20 comptroller may seek specific performance and other appropriate
21 equitable relief pursuant to the dispute resolution provisions of
22 this gaming agreement to cause the agency to take actions necessary
23 to protect the fairness, honesty, and integrity of the gaming which
24 occurs on the Tribe's Indian lands.

25 Art. 5. (a) The Tribal Gaming Agency shall adopt rules
26 governing:

27 (1) security for the lottery and the Tribal Gaming

1 Agency, including the development of an internal security plan;

2 (2) apportionment of the total revenues from sales
3 from all sources in the amounts provided by Chapter 2004, Texas
4 Occupations Code;

5 (3) enforcement of prohibitions on the play of video
6 lottery games by an individual younger than 18 years of age;

7 (4) enforcement of prohibitions on a person playing a
8 lottery game by telephone;

9 (5) [reserved];

10 (6) enforcement of prohibitions provided by Texas law
11 on the sale of any purchase or play of a video lottery game; and

12 (7) licensing all vendors providing equipment and or
13 services to video lottery terminal establishments valued in the
14 aggregate to exceed \$50,000 in any calendar year, including video
15 lottery terminal providers, video lottery terminal managers, and
16 video lottery retailers as those terms are defined by Chapter 2004,
17 Texas Occupations Code.

18 Art. 6. The Tribal Gaming Agency may establish a
19 provisional license or other classes of licenses necessary to
20 regulate and administer the quantity and type of video lottery
21 games provided at each video lottery terminal establishment. The
22 Tribal Gaming Agency shall not issue a provisional license to a
23 person or entity that the comptroller has informed the Tribal
24 Gaming Agency would not be suitable for a license. The agency shall
25 suspend a provisional license on notice by the comptroller that the
26 comptroller concludes the person or entity is not suitable for a
27 license.

1 Art. 7. At least once every two years, the Tribal Gaming
2 Agency, in consultation with the comptroller, shall employ an
3 independent firm that is experienced in security, including
4 computer security and systems security, to conduct a comprehensive
5 study of all aspects of video lottery security.

6 Art. 8. The Tribal Gaming Agency shall, every two years,
7 employ an independent firm experienced in demographic analysis to
8 conduct a demographic study of video lottery players. The study
9 must include the income, age, sex, race, education, and frequency
10 of participation of players.

11 Art. 9. The comptroller shall have unqualified access to
12 the Tribal Gaming Agency at all times and may oversee any aspect of
13 the agency's activity.

14 Art. 10. The Tribal Gaming Agency shall establish or cause
15 to be established a video lottery central system to link all video
16 lottery terminals in the video lottery system located on the
17 Tribe's Indian lands. The Tribal Gaming Agency rules applicable to
18 the video lottery central system shall, at a minimum, include:

19 (1) auditing and other reporting information required
20 by the Tribal Gaming Agency;

21 (2) procedures for the Tribal Gaming Agency control
22 over the activation and disabling of video lottery terminals;

23 (3) procedures to provide to a registered video
24 lottery terminal provider or an applicant applying for registration
25 as a video lottery terminal provider the protocol documentation
26 data necessary to enable the provider's or applicant's video
27 lottery terminals to communicate with the Tribe's video lottery

1 central system;

2 (4) procedures to ensure compatibility between the
3 video lottery central system and video lottery terminals supplied
4 by potential video lottery terminal providers except for providers
5 that fail to meet specifications set by the Tribal Gaming Agency;
6 and

7 (5) requiring the video lottery terminal
8 establishment to prepare at least weekly a report on the net
9 terminal income for the week and forward the report to the
10 comptroller and to the Tribal Gaming Agency.

11 Art. 11. A video lottery terminal establishment shall
12 conduct business for the operation of video lottery terminals only
13 with entities that possess a temporary, provisional, or permanent
14 license issued by the Tribal Gaming Agency.

15 Art. 12. (a) The Tribe may award a contract for lottery
16 supplies, equipment, or services, pending the completion of any
17 investigation and licensing, registration, or other approval
18 authorized and required by this chapter.

19 (b) A contract awarded under this article must include a
20 provision permitting the Tribe to terminate the contract without
21 penalty if an investigation by the Tribal Gaming Agency or the
22 comptroller reveals that the person to whom the contract is awarded
23 would not satisfy the applicable requirements for licensing,
24 registration, or other approval under this gaming agreement in
25 effect or under Chapter 2004, Texas Occupations Code.

26 Art. 13. (a) Nothing in the gaming agreement is intended to
27 diminish or otherwise preclude this state from enforcing the

1 criminal provisions of Texas gaming laws for gaming operated
2 inconsistently with the terms of the gaming agreement in effect.

3 (b) The Tribal Gaming Agency shall cooperate with duly
4 authorized state law enforcement officials in the investigation and
5 prosecution of violations of Texas gaming laws.

6 Art. 14. The State of Texas, acting through the
7 comptroller, may request additional agreements with the Tribe to
8 ensure the integrity, security, honesty, and fairness of the
9 operation and to protect the gaming patrons, as necessary. The
10 State of Texas and the Tribe shall negotiate such additional
11 agreements in good faith. If the two governments fail to reach an
12 agreement within 90 days of the initial request, the State or the
13 Tribe may submit the matter to the dispute resolution provisions of
14 this agreement.

15 Art. 15. GENERAL DISPUTE RESOLUTION. (a) Non-Emergency
16 Compliance. If either the comptroller or the Tribe believes the
17 designated representative of the other party has failed to comply
18 with any of the provisions of this gaming agreement, the
19 comptroller or Tribe may invoke the procedure provided under this
20 article.

21 (b) Informal Dispute Resolution.

22 (1) The party asserting noncompliance shall serve
23 written notice on the other party. The party asserting the
24 noncompliance shall identify the specific provision of this gaming
25 agreement alleged to have been violated and shall specify the
26 factual basis thereof. If the alleged violation is of a regulation
27 or procedure that is incorporated by this gaming agreement or the

1 authorizing state law, the comptroller and the Tribe shall
2 thereafter meet within 10 days in an effort to resolve the dispute.

3 (2) If the dispute is not resolved to the satisfaction
4 of the parties within 30 days after the service of the notice under
5 Subdivision (1), either party may request informal mediation with a
6 mediation service acceptable to both parties. In the event the
7 parties cannot agree on a mediation service, each party may appoint
8 a mediator, who shall work jointly to resolve the dispute.

9 (3) If the dispute is not resolved to the satisfaction
10 of the parties within 30 days after the service of the notice under
11 Subdivision (1), either party may pursue the remedies provided in
12 this article.

13 (c) Arbitration. If agreement cannot be reached as provided
14 by Subsection (b) of this article, the issues may be submitted to
15 binding arbitration on consent of both parties as follows:

16 (1) Either party shall serve written notice of intent
17 to arbitrate on the other party on the final day of negotiation.
18 The party serving notice of intent to arbitrate shall identify the
19 specific provisions of this gaming agreement and issues, which
20 shall be submitted for arbitration.

21 (2) Both parties shall within five days of notice of
22 intent to arbitrate provide a list of five names of individuals
23 available as prospective arbitrators. Each party shall, within
24 five days of the receipt of the other party's list, select a person
25 from that list as an arbitrator. Within 10 days of selection, the
26 two individuals shall select a third arbitrator from a list of not
27 less than five nominees from an independent arbitrator or

1 alternative dispute resolution organization. If the individuals do
2 not agree on such organization, the organization must be Judicial
3 Arbitration and Mediation Services, or its successor in interest.
4 If that organization no longer exists and has no successor in
5 interests, the organization shall be the American Arbitration
6 Association. If that association no longer exists and the parties
7 cannot otherwise agree, then the parties shall proceed to judicial
8 resolution. The State of Texas and the Tribe agree that the
9 arbitrators shall be required to submit their decision within 90
10 days of the selection of the third arbitrator.

11 (3) The arbitrators shall have authority to issue such
12 orders and decisions as shall be reasonably necessary or desirable
13 to bring about an expeditious decision consistent with the judicial
14 decision made in the initial declaratory judgment action.

15 (4) Arbitration expenses will be billed equally to the
16 respective parties.

17 (5) Except as may be determined by a federal court,
18 arbitration decisions shall have the same effect as if a part of
19 this gaming agreement and are incorporated in full herein. They
20 shall be in effect unless and until determined otherwise by a
21 federal court.

22 (6) Nothing herein shall preclude the parties from
23 agreeing to an alternate form of dispute resolution.

24 (d) Judicial Resolution.

25 (1) On completion of the informal dispute resolution
26 process of Subsections (b) and (c), both the comptroller and the
27 Tribe consent to the jurisdiction of the federal courts for the

1 resolution of any dispute arising from activities governed by this
2 gaming agreement.

3 (2) The waivers of immunity of the Tribe and the State
4 of Texas shall not limit the court's equitable jurisdiction to
5 award specific performance or otherwise fashion relief to force a
6 party's compliance with the provisions of the gaming agreement or
7 with Chapter 2004, Texas Occupations Code.

8 Art. 16. Emergency Compliance.

9 (1) On notification from the comptroller to the Tribal
10 Gaming Agency of the need to seize or disable equipment, the Tribal
11 Gaming Agency shall take the action recommended by the comptroller
12 by securing the equipment at issue and preventing its further play
13 by gaming patrons. If, after a 24-hour period, the Tribal Gaming
14 Agency concludes that further play of the equipment does not
15 violate the gaming agreement, applicable Texas law, other
16 applicable law, or threaten the integrity of the gaming operation,
17 the agency shall so notify the comptroller. The Tribal Gaming
18 Agency may not allow the equipment to be placed back into operation
19 sooner than 72 hours after notice to the comptroller unless the
20 comptroller, within that 72-hour period, secures a court-ordered
21 injunction from the federal court.

22 (2) On notification from the comptroller to the Tribal
23 Gaming Agency of the need to take emergency action, the Tribal
24 Gaming Agency shall take the action recommended by the comptroller.
25 The comptroller shall only invoke this provision if the comptroller
26 concludes that such action is necessary to protect the
27 establishment from an immediate threat and irreparable harm. If,

1 after a 24-hour period, the Tribal Gaming Agency concludes that
2 action is not an emergency, does not violate the gaming agreement,
3 Chapter 2004, Texas Occupations Code, or other applicable law, the
4 agency shall so notify the comptroller. The Tribal Gaming Agency
5 may reverse the action taken not sooner than 72 hours after such
6 notice to the comptroller unless the comptroller, within that
7 72-hour period, secures a court-ordered injunction from the federal
8 court.

9 Art. 17. No Third Party Rights. Nothing herein shall be
10 interpreted as providing standing to any person or entity other
11 than the Tribe or the comptroller to bring an action for enforcement
12 of the terms of this gaming agreement.

13 [Sections 2004.255-2004.300 reserved for expansion]

14 SUBCHAPTER G. DISCIPLINARY ACTIONS; OFFENSES

15 Sec. 2004.301. REVOCATION OF LICENSE, REGISTRATION, OR
16 OTHER REGULATORY APPROVAL. (a) A tribal gaming agency or the
17 comptroller shall revoke or suspend a license, registration, or
18 other regulatory approval issued under this chapter if the license
19 or registration holder or holder of the approval at any time fails
20 to meet the eligibility requirements set forth in this chapter.

21 (b) Failure to timely remit revenue generated by video
22 lottery terminals to the appropriate tribal gaming agency or any
23 tax or other fee owed to this state as demonstrated by report from
24 the applicable taxing authority or to timely file any report or
25 information required under this chapter as a condition of any
26 license, registration, or other approval issued under this chapter
27 may be grounds for suspension or revocation, or both, of a license,

1 registration, or other approval issued under this chapter.

2 Sec. 2004.302. DEPRIVATION HEARING FOR REVOCATION OR
3 SUSPENSION OF REGISTRATION OR LICENSE. (a) Before a tribal gaming
4 agency or the comptroller revokes or suspends a video lottery
5 terminal provider's registration or video lottery retailer's or
6 video lottery manager's license, or imposes monetary penalties for
7 a violation of this chapter, the tribal gaming agency or
8 comptroller shall provide written notification to the license or
9 registration holder of the revocation, the period of suspension, or
10 the monetary penalty. The notice shall include:

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

13 (2) each reason for the revocation, suspension, or
14 penalty;

15 (3) an explanation of the evidence supporting the
16 reasons;

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

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

23 (b) The notice required under Subsection (a) must be made by
24 personal delivery or by mail to the person's mailing address as it
25 appears on the tribal gaming agency's or comptroller's records.

26 (c) To obtain an administrative hearing on a suspension,
27 revocation, or penalty under this section, a person must submit a

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

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

1 tribal gaming agency, comptroller, tribal court, or administrative
2 law judge.

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

25 (f) A license or registration holder agrees that the
26 privilege of holding a license or registration under this chapter
27 is conditioned on the holder's agreement to this section in its

1 entirety and, thereby, waives any right to challenge or otherwise
2 appeal the enforceability of this section.

3 Sec. 2004.303. SUMMARY SUSPENSION; TERMINAL DISABLED. (a)
4 The tribal gaming agency may summarily suspend a tribal gaming
5 agency issued registration or license and the comptroller may
6 summarily suspend a comptroller issued registration or license
7 without notice or hearing if the agency or comptroller finds the
8 action is necessary to maintain the integrity, security, honesty,
9 or fairness of the operation or administration of the video lottery
10 or to prevent financial loss to this state and:

11 (1) the license holder fails to deposit money received
12 from video lottery terminal operations as required by this chapter
13 or tribal gaming agency or comptroller rule;

14 (2) an event occurs that would render the license
15 holder ineligible for a license under this chapter;

16 (3) the license holder refuses to allow the tribal
17 gaming agency, the tribal gaming agency's agents, the comptroller,
18 the comptroller's agents, or the state auditor, or their designees,
19 to examine the license holder's books, records, papers, or other
20 objects; or

21 (4) the tribal gaming agency or comptroller learns the
22 license holder failed to disclose information that would, if
23 disclosed, render the license holder ineligible for a license under
24 this chapter.

25 (b) The comptroller may direct the tribal gaming agency to
26 disable a video lottery terminal operated by a license holder under
27 this subchapter at the time:

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

3 (2) the tribal gaming agency or comptroller discovers
4 the license holder failed to deposit money received from video
5 lottery terminal operations as required if the license is being
6 summarily suspended under this section; or

7 (3) of the occurrence of an act or omission that, under
8 tribal gaming agency or comptroller rules, justifies the
9 termination of video lottery terminal operations to protect the
10 public health, welfare, or safety or the integrity of the lottery or
11 to prevent financial loss to this state.

12 (c) The comptroller shall inform the applicable tribal
13 gaming agency of recommended action as provided by this section. In
14 the unlikely event that the tribal gaming agency does not concur,
15 the matter shall be governed by the dispute resolution process set
16 forth in the gaming agreement.

17 Sec. 2004.304. VENUE. (a) Venue is proper in Travis County
18 or any county in which venue is proper under Chapter 13, Code of
19 Criminal Procedure, for:

20 (1) an offense under this chapter; or

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

22 (A) is not an Indian tribe and otherwise is a
23 video lottery manager, video lottery retailer, video lottery
24 terminal provider, video lottery central system provider; and

25 (B) is alleged to have committed the offense
26 while engaged in video lottery activities.

27 (b) If the accused is an Indian tribe or a tribal gaming

1 agency, venue shall be governed by the gaming agreement in effect.

2 Sec. 2004.305. UNAUTHORIZED OPERATION, USE, OR POSSESSION
3 OF VIDEO LOTTERY TERMINAL. (a) A person may not operate, use, or
4 possess a video lottery terminal or other electronic gambling
5 device unless the operation, use, or possession is expressly
6 authorized by this chapter.

7 (b) Except during transport to or from a video lottery
8 terminal establishment and as provided by this chapter, a person
9 commits an offense if the person operates, uses, or possesses any
10 video lottery terminal that is not at all times connected to a video
11 lottery central system. An offense under this subsection is a
12 felony of the third degree.

13 (c) A person commits an offense if the person operates,
14 uses, or possesses a gambling device, other than a video lottery
15 terminal authorized under this chapter, including a slot machine,
16 dice game, roulette wheel, house-banked game, or game in which a
17 winner is determined by the outcome of a sports contest. An offense
18 under this subsection is a felony of the third degree.

19 (d) Notwithstanding Subsection (b) or (c), a video lottery
20 retailer, video lottery manager, or registered video lottery
21 terminal provider may store or possess a video lottery terminal as
22 authorized by the comptroller or by a tribal gaming agency pursuant
23 to a gaming agreement in effect, and the comptroller or tribal
24 gaming agency may possess video lottery terminals for study and
25 evaluation.

26 (e) Nothing in this section shall be construed to prohibit
27 the operation, use, or possession of equipment, machines,

1 technological aids, or other devices allowed in connection with the
2 play of bingo under Chapter 2001 or allowed in with the play off
3 Texas State Lottery games under Chapter 466, Government Code.

4 Sec. 2004.306. SALE OF TICKET OR LOTTERY GAME TO OR PURCHASE
5 OF TICKET OR LOTTERY GAME BY PERSON YOUNGER THAN 18 YEARS OF AGE.

6 (a) A video lottery manager, video lottery retailer, or an employee
7 of a video lottery manager or video lottery retailer or an employee
8 of a tribe-owned video lottery gaming establishment commits an
9 offense if the person intentionally or knowingly allows a person
10 younger than 18 years of age to play a video lottery game.

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

13 (1) plays a video lottery game; or

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

18 (c) An offense under Subsection (a) or (b) is a Class C
19 misdemeanor.

20 Sec. 2004.307. PURCHASE OF TICKET OR VIDEO LOTTERY GAME
21 WITH PROCEEDS OF AFDC CHECK OR FOOD STAMPS. (a) A person commits an
22 offense if the person intentionally or knowingly plays a video
23 lottery game with:

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

27 (2) a food stamp coupon issued under the food stamp

1 program administered under Chapter 33, Human Resources Code.

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

3 Sec. 2004.308. FORGERY; ALTERATION OF VIDEO LOTTERY TICKET.

4 (a) A person commits an offense if the person intentionally or
5 knowingly alters or forges a ticket or video lottery game,
6 including tickets provided by a video lottery terminal.

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

12 Sec. 2004.309. TAMPERING WITH VIDEO LOTTERY EQUIPMENT. (a)
13 A person commits an offense if the person intentionally or
14 knowingly tampers with, damages, defaces, or renders inoperable any
15 vending machine, electronic computer terminal, video lottery
16 terminal or other video lottery equipment, or other mechanical
17 device used in a lottery game.

18 (b) An offense under this section is a felony of the second
19 degree.

20 SECTION 2. Section 47.01(4), Penal Code, is amended to read
21 as follows:

22 (4) "Gambling device" means any electronic,
23 electromechanical, or mechanical contrivance not excluded under
24 Paragraph (B) or (C) that for a consideration affords the player an
25 opportunity to obtain anything of value, the award of which is
26 determined solely or partially by chance, even though accompanied
27 by some skill, whether or not the prize is automatically paid by the

1 contrivance. The term:

2 (A) includes, but is not limited to, gambling
3 device versions of bingo, keno, blackjack, lottery, roulette, video
4 poker, slot machines, or similar electronic, electromechanical, or
5 mechanical games, or facsimiles thereof, that operate by chance or
6 partially so, that as a result of the play or operation of the game
7 award credits or free games, and that record the number of free
8 games or credits so awarded and the cancellation or removal of the
9 free games or credits; ~~and~~

10 (B) does not include any electronic,
11 electromechanical, or mechanical contrivance designed, made, and
12 adapted solely for bona fide amusement purposes if:

13 (i) the contrivance rewards the player
14 exclusively with noncash merchandise prizes, toys, or novelties, or
15 a representation of value redeemable for those items, that have a
16 wholesale value available from a single play of the game or device
17 of not more than 10 times the amount charged to play the game or
18 device once or \$5, whichever is less;

19 (ii) any merchandise or a representation of
20 value received by a player may be exchanged only at the same
21 business and business location at which the contrivance operated by
22 the player is located and may not be exchanged for a gift
23 certificate or similar conveyance that is redeemable at another
24 business or business location; and

25 (iii) the contrivance or device does not
26 resemble a slot machine or any other casino game; and

27 (C) does not include equipment, machines,

1 technological aids, or other devices allowed in connection with the
2 playing of bingo under Chapter 2001, Occupations Code, or video
3 lottery terminals authorized under Chapter 2004, Occupations Code.

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

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

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

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

12 (3) was permitted under Chapter 2004, Occupations
13 Code;

14 (4) consisted entirely of participation in the state
15 lottery authorized by the State Lottery Act (Chapter 466,
16 Government Code);

17 (5) [~~4~~] was permitted under the Texas Racing Act
18 (Article 179e, Vernon's Texas Civil Statutes); or

19 (6) [~~5~~] consisted entirely of participation in a
20 drawing for the opportunity to participate in a hunting, fishing,
21 or other recreational event conducted by the Parks and Wildlife
22 Department.

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

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

1 (1) was authorized under:

2 (A) Chapter 2001, Occupations Code;

3 (B) Chapter 2002, Occupations Code; ~~[or]~~

4 (C) Chapter 2004, Occupations Code; or

5 (D) the Texas Racing Act (Article 179e, Vernon's
6 Texas Civil Statutes);

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

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

11 (A) Chapter 466, Government Code;

12 (B) the lottery division of the Texas Lottery
13 Commission;

14 (C) the Texas Lottery Commission; or

15 (D) the director of the lottery division of the
16 Texas Lottery Commission.

17 (c) Subsection (a)(1)(C) applies to a person manufacturing,
18 distributing, possessing, or operating a gambling device with the
19 authorization of the comptroller under a gaming agreement in effect
20 under Chapter 2004, Occupations Code.

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

23 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
24 a defense to prosecution under this chapter that a person sells,
25 leases, transports, possesses, stores, or manufactures a gaming
26 device with the authorization of a tribal gaming agency under a
27 gaming agreement in effect under Chapter 2004, Occupations Code, or

1 with the authorization of the comptroller under that chapter.

2 SECTION 6. The legislature finds and declares the
3 following:

4 (1) Contingent on the approval of the voters, a
5 limited and narrow exception to the constitutional prohibition on
6 lotteries has been proposed to authorize tribe-operated video
7 lottery games subject to strict state oversight in accordance with
8 this Act.

9 (2) In light of the financial emergency faced by the
10 state in the event the voters approve the constitutional amendment,
11 the comptroller must be authorized to commence oversight of video
12 lottery games on Indian lands in accordance with this Act at the
13 earliest possible date, consistent with the intent of the voters
14 and legislative directive.

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

21 (4) The state's budget crisis constitutes an imminent
22 peril to the public welfare, requiring the adoption of rules and
23 authorization for the comptroller to conduct certain limited
24 pre-implementation activities related to the oversight of the
25 establishment of video lottery by Indian tribes to promote and
26 ensure the integrity, security, honesty, and fairness of the
27 operation and administration of the video lottery games.

1 (5) In order to commence operation of video lottery
2 games at the earliest possible date and to maintain the integrity of
3 the video lottery games authorized by this Act, the comptroller may
4 conduct limited pre-implementation acts before the constitutional
5 amendment proposed by the 79th Legislature, Regular Session, 2005,
6 to authorize the operation of video lottery games in this state by
7 certain Indian tribes on Indian lands is submitted to the voters for
8 approval.

9 SECTION 7. (a) As soon as practicable after the
10 constitutional amendment to authorize the video lottery games in
11 this state by certain Indian tribes on Indian lands proposed by the
12 79th Legislature, Regular Session, 2005, is approved by the voters
13 and becomes effective, the comptroller shall adopt the rules
14 necessary to implement the comptroller's oversight of those video
15 lottery games.

16 (b) Before the proposed constitutional amendment is
17 submitted to the voters, the comptroller may expend money from the
18 comptroller's appropriation for the 2005-2006 biennium for
19 purposes of conducting pre-implementation activities related to
20 the oversight of video lottery games by Indian tribes.
21 Notwithstanding Section 2004.057, Occupations Code, the money
22 authorized to be expended under this section may be withdrawn from
23 the state video lottery account and considered a part of the
24 transfer of funds from the state video lottery account authorized
25 by Section 2004.215, Occupations Code, as added by this Act, to fund
26 the pre-implementation activities.

27 (c) Before the proposed constitutional amendment is

1 submitted to the voters, the comptroller may accept from a tribal
2 gaming agency pre-implementation applications for video lottery
3 retailers and video lottery managers. On receipt of a complete
4 application, completion of all investigations, and submittal of the
5 nonrefundable investigatory fees the comptroller requires, the
6 comptroller may make preliminary findings of suitability for an
7 applicant of a video lottery terminal establishment. If the
8 comptroller determines that all the requirements have been
9 satisfied, the comptroller may issue a letter advising the
10 applicant of the status of preliminary approval of the application
11 pending approval by the voters of the proposed constitutional
12 amendment. If the comptroller determines that any requirements
13 under a gaming agreement in effect have not been satisfied, the
14 comptroller may request additional information or conduct further
15 investigations the comptroller considers necessary and may issue a
16 letter advising the applicant of the status of the application.

17 (d) Before the proposed constitutional amendment is
18 submitted to the voters, the comptroller may request and receive
19 information related to applications for licensing and registration
20 under Chapter 2004, Occupations Code, as added by this Act,
21 contingent on approval of the constitutional amendment. An
22 applicant's failure to comply with any requests made by the
23 comptroller under this subsection shall be grounds for a tribal
24 gaming agency to deny an application.

25 (e) A tribal gaming agency or the comptroller may not issue
26 any license, registration, or temporary license related to video
27 lottery under a gaming agreement in effect, unless and until the

1 constitutional amendment authorizing the operation of video
2 lottery games in this state by certain Indian tribes on Indian lands
3 is approved by the voters and becomes effective.

4 (f) Before the proposed constitutional amendment is
5 submitted to the voters, a tribal gaming agency and the comptroller
6 may conduct investigations and collect investigative fees related
7 to information requested and received for pre-implementation
8 applications under this section and necessary for a tribal gaming
9 agency's and the comptroller's evaluation and determination of an
10 application for any licensing, registration, or approval.

11 (g) Before the proposed constitutional amendment is
12 submitted to the voters, a tribal gaming agency and the comptroller
13 may conduct preregistration of potential video lottery terminal
14 providers. To qualify for preregistration under this subsection,
15 an applicant must satisfy the minimum application requirements
16 under Section 2004.151, Occupations Code, except that the
17 application fee required under that section is not due until the
18 applicant files an application for registration under a gaming
19 agreement in effect. A preregistration applicant shall submit
20 necessary money not later than the 10th day after the date the
21 applicant receives notice from the comptroller that it has incurred
22 actual costs for the preregistration investigation. If the
23 comptroller does not receive the necessary money from the applicant
24 on or before the 15th day after the date the applicant receives the
25 comptroller's notice, the tribal gaming agency or comptroller shall
26 suspend the application until the money is received by the
27 comptroller.

1 (h) A tribal gaming agency or the comptroller may not
2 register any video lottery terminal providers unless and until the
3 constitutional amendment authorizing the operation of video
4 lottery games in this state by certain Indian tribes on Indian lands
5 is approved by the voters and becomes effective.

6 (i) A video lottery terminal provider that has been
7 preregistered by a tribal gaming agency or the comptroller in
8 accordance with this section, a video lottery central system
9 provider, or a manufacturer of video lottery games, under a
10 contract with the tribe or tribal gaming agency, may manufacture
11 and test prototypes of or existing video lottery equipment for a
12 video lottery central system, video lottery terminals, and video
13 lottery games for the tribal gaming agency's and the comptroller's
14 consideration.

15 (j) Before the proposed constitutional amendment is
16 submitted to the voters, a tribal gaming agency may negotiate
17 contracts with preregistered video lottery terminal providers. The
18 comptroller or the tribal gaming agency may enter into contracts
19 with preregistered video lottery terminal providers, video lottery
20 central system providers, and manufacturers of video lottery games
21 as required for the creation and testing of video lottery central
22 systems, video lottery terminals, and video lottery games for the
23 comptroller's consideration.

24 (k) Before the proposed constitutional amendment is
25 submitted to the voters, the comptroller may negotiate and enter
26 into contracts as necessary to oversee video lottery games
27 conducted by Indian tribes. The comptroller is exempt from the

1 procurement procedures and any and all bidding requirements or
2 contract requirements provided by any other law or by rules of the
3 comptroller for the acquisition or provision of facilities,
4 supplies, equipment, materials, or services related to the
5 implementation of video lottery under this section.

6 (1) Before the proposed constitutional amendment is
7 submitted to the voters, the comptroller may employ additional
8 employees to administer this Act.

9 SECTION 8. Sections 1 through 5 of this Act take effect on
10 the date the amendment to Section 47, Article III, Texas
11 Constitution, authorizing the operation of video lottery games in
12 this state by certain Indian tribes on Indian lands proposed by the
13 79th Legislature, Regular Session, 2005, becomes effective.
14 Sections 6 and 7 of this Act and this section take effect
15 immediately if this Act receives a vote of two-thirds of all the
16 members elected to each house, as provided by Section 39, Article
17 III, Texas Constitution. If this Act does not receive the vote
18 necessary for immediate effect, Sections 6 and 7 of this Act and
19 this section take effect on the 91st day after the last day of the
20 legislative session.