

By: Armbrister

S.B. No. 1403

A BILL TO BE ENTITLED

1 AN ACT

2 relating to authorizing the state to operate video lottery at
3 racetracks, to the operation of video lottery by Indian tribes, to
4 the authority of the Texas Lottery Commission, and to the conduct of
5 gambling in this state; providing penalties.

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

7 SECTION 1. Section 466.002, Government Code, is amended by
8 amending Subdivisions (2)-(10) and adding Subdivisions (11)-(36)
9 to read as follows:

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

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

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

21 (5) "Distribute," with respect to a video lottery
22 terminal, an electronic computer component of a video lottery
23 terminal, the cabinet in which a video lottery terminal is housed,
24 video lottery equipment, or video lottery game software intended

1 for use or play in this state, including on Indian lands in this
2 state, means the sale, lease, marketing, offer, or other
3 disposition of any of those items.

4 (6) [~~(3)~~] "Division" means the lottery division
5 established by the commission under Chapter 467.

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

13 (8) [~~(4)~~] "Executive director" means the executive
14 director of the commission.

15 (9) "Gaming agreement" means an agreement authorized
16 under Subchapter K between this state and a federally recognized
17 Indian tribe under which this state allows the tribe to conduct
18 limited gaming activities authorized under this chapter or
19 applicable federal law.

20 (10) "House-banked game" means a game of chance in
21 which:

22 (A) the house plays as a participant;

23 (B) the house competes against all players,
24 collects from all losers, and pays all winners; and

25 (C) the house has an opportunity to win.

26 (11) "Indian lands" means:

27 (A) land located within an Indian reservation and

1 occupied by an Indian tribe on January 1, 1998; and

2 (B) land occupied by an Indian tribe on January
3 1, 1998, over which an Indian tribe exercises governmental power
4 and the title to which is:

5 (i) held in trust by the United States for
6 the benefit of an Indian tribe or individual member of an Indian
7 tribe; or

8 (ii) held by an Indian tribe or an
9 individual member of an Indian tribe and subject to restriction by
10 the United States against alienation.

11 (12) "Institutional investor" means:

12 (A) a state or federal government pension plan;
13 or

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

19 (i) a bank as defined by Section 3(a)(6),
20 Securities Exchange Act of 1934 (15 U.S.C. Sections 78a-78kk), and
21 the rules and regulations adopted under that act by the United
22 States Securities and Exchange Commission;

23 (ii) an insurance company as defined by
24 Section 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section
25 80a-1 et seq.);

26 (iii) an investment company registered
27 under Section 8, Investment Company Act of 1940 (15 U.S.C. Section

1 80a-1 et seq.);

2 (iv) an employee benefit plan or pension
3 fund subject to the Employee Retirement Income Security Act of 1974
4 (29 U.S.C. Section 1001 et seq.), excluding an employee benefit
5 plan or pension fund sponsored by a publicly traded corporation
6 registered with the Securities and Exchange Commission;

7 (v) a group composed entirely of persons
8 specified by this subdivision; or

9 (vi) any other person the commission
10 recognizes as an institutional investor for reasons consistent with
11 the policies expressed in this chapter.

12 (13) [~~5~~] "Lottery" means the state lottery
13 established and operated in accordance with the Texas Constitution
14 under this chapter and includes the operation of a state-controlled
15 video lottery system [~~procedures operated by the state under this~~
16 ~~chapter through which prizes are awarded or distributed by chance~~
17 ~~among persons who have paid, or unconditionally agreed to pay, for a~~
18 ~~chance or other opportunity to receive a prize].~~

19 (14) [~~6~~] "Lottery game" means an activity conducted
20 lawfully and in accordance with the Texas Constitution and this
21 chapter that is controlled by this state as part of the lottery and
22 through which prizes are awarded or distributed by chance to
23 persons who have paid or unconditionally agreed to pay, or who
24 otherwise participate in a game, for a chance or other opportunity
25 to receive a prize [~~includes a lottery activity].~~

26 (15) [~~7~~] "Lottery operator" means a person selected
27 under Section 466.014(b) to operate a lottery game.

1 (16) "Manufacture," with respect to a video lottery
2 terminal, an electronic computer component of a video lottery
3 terminal, the cabinet in which a video lottery terminal is housed,
4 video lottery equipment, or video lottery game software intended
5 for use or play in this state, including on Indian lands in this
6 state, means to design, assemble, fabricate, produce, program, or
7 make modifications to any of those items.

8 (17) "Net terminal income" means the total amount of
9 money paid to play video lottery games less the value of all credits
10 redeemed for money, including any progressive prizes and bonuses,
11 by the players of the video lottery games. Promotional prizes
12 unrelated to video lottery game wagers that are offered by a video
13 lottery retailer or video lottery manager may not be deducted or
14 otherwise considered credits redeemed for money by players for the
15 purpose of determining net terminal income.

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

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

24 (20) [~~8~~] "Player" means a person who contributes any
25 part of the consideration for a ticket or to play a video lottery
26 game under this chapter.

27 (21) "Racetrack" means a racetrack as defined by

1 Section 1.03(25), Texas Racing Act (Article 179e, Vernon's Texas
2 Civil Statutes).

3 (22) [~~19~~] "Sales agent" or "sales agency" means a
4 person licensed under this chapter to sell tickets.

5 (23) "Slot machine" means a mechanical, electrical, or
6 other type of device, contrivance, or machine that plays or
7 operates on insertion of a coin, currency, token, or similar object
8 or on payment of any other consideration, and the play or operation
9 of which, through the skill of the operator, by chance, or both, may
10 deliver to the person playing or operating the machine, or entitle
11 the person to receive, cash, premiums, merchandise, tokens, or any
12 other thing of value, whether the payoff is made automatically from
13 the machine or in any other manner. The term does not include any
14 equipment, machine, technological aid, or other device used or
15 authorized in connection with the play of bingo under Chapter 2001,
16 Occupations Code.

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

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

1 (B) a person who directly, indirectly, or
2 beneficially owns 10 percent or more of any publicly owned
3 corporation, association, trust, partnership, limited partnership,
4 joint venture, subsidiary, or other entity, regardless of its form,
5 structure, or nature;

6 (C) a person associated with an applicant or
7 license holder who the commission determines has the power or
8 authority to:

9 (i) control the activities of the applicant
10 or license holder; or

11 (ii) elect or select the executive
12 director, the managers, the partners, or a majority of the board of
13 directors of the applicant or license holder; and

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

20 (25) [~~(10)~~] "Ticket" means any tangible evidence
21 issued to provide participation in a lottery game authorized by
22 this chapter other than a video lottery game.

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

1 and to disable any video lottery terminal in this state.

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

5 (28) "Video lottery equipment" means:

6 (A) a video lottery terminal;

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

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

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

16 (iii) monitor video lottery terminal
17 operations; and

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

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

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

1 appear to roll on drums to simulate a classic casino slot machine or
2 themes of other card games and keno may be used.

3 (30) "Video lottery manager" means a person who:

4 (A) is licensed by the commission under this
5 chapter to manage a video lottery terminal establishment at a
6 racetrack; or

7 (B) provides management services for a video
8 lottery terminal establishment on Indian lands.

9 (31) "Video lottery retailer" means a racetrack at
10 which a video lottery terminal establishment is located and that
11 holds a video lottery retailer license under Subchapter K.

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

14 (33) "Video lottery terminal" means an interactive
15 electronic device that is capable of displaying video lottery
16 games.

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

21 (35) "Video lottery terminal provider" means a person
22 in the business of manufacturing or distributing video lottery
23 terminals in this state.

24 (36) "Video lottery ticket" means the tangible
25 evidence issued by a video lottery terminal to reflect winnings
26 from the play of a video lottery game.

27 SECTION 2. Section 466.003, Government Code, is amended by

1 amending Subsection (b) and adding Subsection (c) to read as
2 follows:

3 (b) Any [A] contract or authorized agreement between the
4 division and a lottery operator, the video lottery central system
5 provider, a video lottery terminal provider, or a manufacturer or
6 distributor of video lottery games under Section 466.014(b) must
7 contain a provision allowing the contract or authorized agreement
8 to be terminated without penalty should the division be abolished
9 unless another state agency is assigned to regulate all video
10 lottery game activity as required by this chapter.

11 (c) Notwithstanding Subsection (a), if any gaming agreement
12 that allows video lottery is in effect, the commission or another
13 state agency designated by the legislature must regulate video
14 lottery games as necessary to comply with a gaming agreement under
15 this chapter.

16 SECTION 3. Section 466.004(a), Government Code, is amended
17 to read as follows:

- 18 (a) A political subdivision of this state may not impose:
- 19 (1) a tax on the sale of a ticket;
 - 20 (2) a tax on the payment of a prize under this chapter;
 - 21 [~~or~~]
 - 22 (3) an ad valorem tax on tickets;
 - 23 (4) a tax, fee, or other assessment on consideration
24 paid to play a video lottery game; or
 - 25 (5) a tax or fee for attendance or admission to a video
26 lottery establishment or a racetrack at which a video lottery
27 establishment is located unless specifically authorized by

1 statute.

2 SECTION 4. Section 466.014, Government Code, is amended to
3 read as follows:

4 Sec. 466.014. POWERS AND DUTIES OF COMMISSION AND EXECUTIVE
5 DIRECTOR; CONTRACT AUTHORITY. (a) The commission and executive
6 director have broad authority and shall exercise strict control and
7 close supervision over [~~all~~] lottery games [~~conducted in this~~
8 ~~state~~] to promote and ensure integrity, security, honesty, and
9 fairness in the operation and administration of the lottery.

10 (b) The executive director may contract with or employ a
11 person to perform a function, activity, or service in connection
12 with the operation of the lottery as prescribed by the executive
13 director. A contract relating to the operation of video lottery
14 must be consistent with Subchapter K. Except as provided by this
15 subsection, a [A] person with whom the executive director contracts
16 to operate a lottery game must be eligible for a sales agent license
17 under Section 466.155. A person with whom the executive director
18 contracts to provide the video lottery central system must be
19 eligible under the same standards as those applicable to the
20 registration or approval by the commission of a video lottery
21 terminal provider in accordance with Subchapter K.

22 (c) The executive director may award a contract for lottery
23 supplies, equipment, or services, including a contract under
24 Subsection (b), pending the completion of any investigation and
25 licensing, registration, or other approval authorized or required
26 by this chapter. A contract awarded under this subsection must
27 include a provision permitting the executive director to terminate

1 the contract without penalty if the investigation reveals that the
2 person to whom the contract is awarded would not be eligible for a
3 sales agent license under Section 466.155 or with regard to video
4 lottery does not satisfy the applicable requirements for licensing,
5 registration, or other approval under Subchapter K.

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

9 (1) procurement procedures prescribed under:

10 (A) Subtitle D, Title 10; and

11 (B) Section 466.101; and

12 (2) any bidding or contract requirements provided by
13 any other law or by commission rules.

14 (e) Subsection (d) and this subsection expire January 1,
15 2008.

16 SECTION 5. Section 466.015(b), Government Code, is amended
17 to read as follows:

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

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

22 (2) apportionment of the total revenues from the sale
23 of tickets and from all other sources in the amounts provided by
24 this chapter;

25 (3) enforcement of prohibitions on the sale of tickets
26 to or by an individual younger than 18 years of age or the sale of a
27 video lottery game to or by an individual younger than 21 years of

1 age; [and]

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

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

6 SECTION 6. Section 466.017, Government Code, is amended to
7 read as follows:

8 Sec. 466.017. AUDITS. (a) The commission [~~executive~~
9 ~~director~~] shall provide for a certified public accountant to
10 conduct an independent audit of the commission's annual financial
11 statements in accordance with generally accepted auditing
12 standards that requires the accountant to express an opinion on the
13 conformity of the financial statements with generally accepted
14 accounting principles [~~for each fiscal year of all accounts and~~
15 ~~transactions of the lottery~~]. The certified public accountant may
16 not have [~~, as determined by the executive director,~~] a significant
17 financial interest in a sales agent, lottery vendor, [~~or~~] lottery
18 operator, video lottery manager, video lottery retailer, video
19 lottery terminal provider, or video lottery central system
20 provider. The certified public accountant shall present an audit
21 report to the executive director, the commission, the governor, the
22 comptroller, and the legislature not later than the 30th day after
23 the submission date for the annual financial report required by the
24 General Appropriations Act. [~~The report must contain~~
25 ~~recommendations to enhance the earnings capability of the lottery~~
26 ~~and improve the efficiency of lottery operations.~~] The state
27 auditor may review the results of and working papers related to the

1 audit.

2 (b) The records of a [Each] lottery operator, sales agent,
3 video lottery manager, video lottery retailer, video lottery
4 terminal provider, or video lottery central system provider
5 ~~[operator's and sales agent's records]~~ are subject to audit by the
6 commission and the state auditor. For the purpose of carrying out
7 this chapter, the executive director or state auditor may examine
8 all books, records, papers, or other objects that the executive
9 director or state auditor determines are necessary for conducting a
10 complete examination under this chapter and may also examine under
11 oath any officer, director, or employee of a lottery operator, ~~[or]~~
12 sales agent, video lottery manager, video lottery retailer, video
13 lottery terminal provider, or video lottery central system
14 provider. The executive director or state auditor may conduct an
15 examination at the principal office or any other office of the
16 person subject to the audit ~~[lottery operator or sales agent]~~ or may
17 require the person ~~[lottery operator or sales agent]~~ to produce the
18 records at the office of the commission or state auditor. If a
19 sales agent, video lottery manager, video lottery retailer, video
20 lottery terminal provider, or video lottery central system provider
21 refuses to permit an examination or to answer any question
22 authorized by this subsection, the executive director may summarily
23 suspend the license or registration of the sales agent, video
24 lottery manager, video lottery retailer, or video lottery terminal
25 provider under Section 466.160 or Subchapter K until the
26 examination is completed as required. Section 321.013(h) does not
27 apply to an audit of a lottery operator, ~~[or]~~ sales agent, video

1 lottery manager, video lottery retailer, video lottery terminal
2 provider, or video lottery central system provider.

3 SECTION 7. Section 466.018, Government Code, is amended to
4 read as follows:

5 Sec. 466.018. INVESTIGATIONS. The attorney general, the
6 district attorney for Travis County, or the district attorney,
7 criminal district attorney, or county attorney performing the
8 duties of district attorney for the county in which the violation or
9 alleged violation occurred may investigate a violation or alleged
10 violation of this chapter and of the penal laws of this state by the
11 commission or its employees, a sales agent, a lottery vendor, ~~[or]~~ a
12 lottery operator, a video lottery manager, a video lottery
13 retailer, a video lottery terminal provider, or a video lottery
14 central system provider.

15 SECTION 8. Sections 466.020(c), (d), and (e), Government
16 Code, are amended to read as follows:

17 (c) A security officer or investigator employed by the
18 department of security or a peace officer who is working in
19 conjunction with the commission or the Department of Public Safety
20 in the enforcement of this chapter may:

21 (1) [r] without a search warrant, [may] search and
22 seize a lottery vending machine, lottery computer terminal, video
23 lottery terminal, or other lottery or gaming equipment that is
24 located on premises for which a person holds a sales agent, video
25 lottery retailer, or video lottery manager license issued under
26 this chapter; or

27 (2) seize a lottery vending machine, lottery computer

1 terminal, video lottery terminal, or other lottery or gaming
2 equipment that is being used or is in the possession of any person
3 in violation of this chapter.

4 (d) The Department of Public Safety or any other state or
5 local law enforcement agency in this state, at the commission's
6 request and in accordance with an interagency agreement, shall
7 perform a full criminal background investigation of a prospective
8 deputy or investigator of the department of security. The
9 commission shall reimburse the agency [~~Department of Public Safety~~]
10 for the actual costs of an investigation.

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

- 15 (1) lottery personnel security;
- 16 (2) sales agent security;
- 17 (3) lottery operator and vendor security;
- 18 (4) security against ticket counterfeiting and
19 alteration and other means of fraudulent winning;
- 20 (5) security of lottery drawings;
- 21 (6) lottery computer, data communications, database,
22 and systems security;
- 23 (7) lottery premises and warehouse security;
- 24 (8) security of distribution of tickets;
- 25 (9) security of validation and payment procedures;
- 26 (10) security involving unclaimed prizes;
- 27 (11) security aspects of each lottery game;

1 (12) security against the deliberate placement of
2 winning tickets in lottery games that involve preprinted winning
3 tickets by persons involved in the production, storage,
4 transportation, or distribution of tickets; ~~and~~

5 (13) security of video lottery retailers, video
6 lottery managers, video lottery terminal providers, and video
7 lottery central system providers; and

8 (14) other security aspects of lottery operations,
9 including video lottery game operations.

10 SECTION 9. Section 466.021(a), Government Code, is amended
11 to read as follows:

12 (a) The executive director shall, every two years, employ an
13 independent firm experienced in demographic analysis to conduct a
14 demographic study of lottery players. The study must examine
15 ~~[include]~~ the income, age, sex, race, education, and frequency of
16 participation of players. The study must distinguish between
17 players of traditional lottery games and video lottery games.

18 SECTION 10. Section 466.022, Government Code, is amended by
19 amending Subsection (b) and adding Subsections (c), (d), (e), and
20 (f) to read as follows:

21 (b) In addition to commission records excepted from
22 disclosure under Chapter 552, the following information is
23 confidential and is exempt from disclosure:

24 (1) security plans and procedures of the commission
25 designed to ensure the integrity and security of the operation of
26 the lottery;

27 (2) information of a nature that is designed to ensure

1 the integrity and security of the selection of winning tickets or
2 numbers in the lottery, other than information describing the
3 general procedures for selecting winning tickets or numbers; ~~and~~

4 (3) the street address and telephone number of a prize
5 winner, if the prize winner has not consented to the release of the
6 information; and

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

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

14 (1) are furnished to the commission under Subchapter K
15 or that may be otherwise obtained by the commission from any source;

16 (2) pertain to an applicant's criminal record,
17 antecedents, and background and are furnished to or obtained by the
18 commission from any source, including information obtained by the
19 commission under Section 411.108(d);

20 (3) are provided to the commission, a commission
21 employee, or an investigator acting on behalf of the commission by a
22 governmental agency or an informer or on the assurance that the
23 information will be held in confidence and treated as confidential;

24 (4) are obtained by the commission from a video
25 lottery manager, video lottery retailer, video lottery terminal
26 provider, or video lottery central system provider; or

27 (5) are prepared or obtained by an agent or employee of

1 the commission relating to a license, registration, or renewal
2 application, a finding of suitability, or any approval required
3 under Subchapter K.

4 (d) Information that qualifies as confidential under
5 Subsection (b)(4) may be disclosed in whole or in part only as
6 necessary to administer this chapter or under a court order. The
7 commission, subject to appropriate procedures, may disclose the
8 information and data to an authorized agent of a political
9 subdivision of this state, the United States, another state or a
10 political subdivision of another state, a tribal law enforcement
11 agency, or the government of a foreign country.

12 (e) For the annual report required under Section 466.016,
13 the commission may disclose a compilation of statistical
14 information that is otherwise confidential under Subsection (b)(4)
15 if the compilation does not disclose the identity of an applicant,
16 license or registration holder, or video lottery establishment.

17 (f) Notwithstanding any other provision of state law, the
18 information provided under Subsection (d) or (e) may not otherwise
19 be disclosed without specific commission authorization.

20 SECTION 11. Section 466.024, Government Code, is amended to
21 read as follows:

22 Sec. 466.024. PROHIBITED GAMES. (a) The executive
23 director, ~~or~~ a lottery operator, a video lottery manager, a video
24 lottery retailer, a video lottery terminal provider, or a video
25 lottery central system provider may not establish or operate a
26 lottery game in which the winner is chosen on the basis of the
27 outcome of a live sports event.

1 (b) The ~~[commission shall adopt rules prohibiting the]~~
2 operation of any game using a video lottery machine, slot ~~[or]~~
3 machine, or other gambling device that is not connected to the video
4 lottery central system and regulated by this state as required by
5 Section 47, Article III, Texas Constitution, and this chapter is
6 prohibited.

7 (c) In this section, "sports ~~[+~~

8 ~~[(1) "Sports]~~ event" means a football, basketball,
9 baseball, or similar game, or a horse or dog race on which
10 pari-mutuel wagering is allowed.

11 ~~[(2) "Video lottery machine" or "machine" means any~~
12 ~~electronic video game machine that, upon insertion of cash, is~~
13 ~~available to play or simulate the play of a video game, including~~
14 ~~video poker, keno, and blackjack, using a video display and~~
15 ~~microprocessors in which the player may receive free games or~~
16 ~~credits that can be redeemed for cash, coins, or tokens, or that~~
17 ~~directly dispenses cash, coins, or tokens.]~~

18 SECTION 12. Section 466.025, Government Code, is amended to
19 read as follows:

20 Sec. 466.025. REPORTS OF TICKETS SOLD, NET TERMINAL INCOME,
21 AND PRIZES AWARDED. For each lottery game, other than a video
22 lottery game, after the last date on which a prize may be claimed
23 under Section 466.408(d), the director shall prepare a report that
24 shows the total number of tickets sold and the number and amounts of
25 prizes awarded in the game. The report must be available for public
26 inspection. For video lottery games, the director shall prepare a
27 weekly report that shows net terminal income for the preceding

1 week.

2 SECTION 13. Section 466.103(a), Government Code, is amended
3 to read as follows:

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

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

10 (2) with regard to video lottery equipment:

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

13 (B) would be deemed unsuitable to be a video
14 lottery terminal provider under Subchapter K.

15 SECTION 14. Section 466.110, Government Code, is amended to
16 read as follows:

17 Sec. 466.110. PROHIBITED ADVERTISEMENTS. The legislature
18 intends that advertisements or promotions sponsored by the
19 commission or the division for the lottery not be of a nature that
20 unduly influences any person to purchase a lottery ticket or number
21 or play a video lottery game.

22 SECTION 15. Section 466.151(b), Government Code, is amended
23 to read as follows:

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

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

3 (a) Unless suspended or revoked, a license issued under this
4 subchapter expires on the date specified in the license, which may
5 not be later than the fifth [~~second~~] anniversary of its date of
6 issuance.

7 SECTION 17. Section 466.201(a), Government Code, is amended
8 to read as follows:

9 (a) The commission is entitled to conduct an investigation
10 of and is entitled to obtain criminal history record information
11 maintained by the Department of Public Safety, the Federal Bureau
12 of Investigation Identification Division, or another law
13 enforcement agency to assist in the investigation of:

14 (1) a sales agent or an applicant for a sales agent
15 license;

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

18 (3) a lottery operator, video lottery manager, video
19 lottery retailer, video lottery terminal provider, or video lottery
20 central system provider, or prospective lottery operator, video
21 lottery manager, video lottery retailer, video lottery terminal
22 provider, or video lottery central system provider;

23 (4) an employee of a lottery operator, video lottery
24 manager, video lottery retailer, video lottery terminal provider,
25 or video lottery central system provider or prospective lottery
26 operator, video lottery manager, video lottery retailer, video
27 lottery terminal provider, or video lottery central system

1 provider, if the employee is or will be directly involved in lottery
2 operations;

3 (5) a person who manufactures or distributes lottery
4 equipment or supplies, or a representative of a person who
5 manufactures or distributes lottery equipment or supplies offered
6 to the lottery;

7 (6) a person who has submitted a written bid or
8 proposal to the commission in connection with the procurement of
9 goods or services by the commission, if the amount of the bid or
10 proposal exceeds \$500;

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

13 (8) a person who proposes to enter into or who has a
14 contract with the commission to supply goods or services to the
15 commission; or

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

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

19 (B) holds more than 10 percent of the stock in the
20 person;

21 (C) holds an equitable interest greater than 10
22 percent in the person;

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

25 (E) is the owner or lessee of a business that the
26 person conducts or through which the person will conduct
27 lottery-related activities;

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

3 (G) participates in managing the affairs of the
4 person; or

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

7 (i) selling tickets; or

8 (ii) handling money from the sale of
9 tickets.

10 SECTION 18. Subchapter E, Chapter 466, Government Code, is
11 amended by adding Section 466.206 to read as follows:

12 Sec. 466.206. CRIMINAL HISTORY INVESTIGATION FOR VIDEO
13 LOTTERY. (a) Except as otherwise provided by this section,
14 Sections 466.020 and 466.201, and Subchapter K, a criminal history
15 investigation of a video lottery retailer, video lottery manager,
16 video lottery terminal provider, or video lottery central system
17 provider is governed by commission rules adopted under Subchapter
18 K, which may consider a criminal history investigation conducted
19 under the Texas Racing Act (Article 179e, Vernon's Texas Civil
20 Statutes).

21 (b) The Department of Public Safety or a state or local law
22 enforcement agency in this state, in accordance with an interagency
23 agreement with the commission, shall provide any assistance
24 requested by the commission in the administration and enforcement
25 of this chapter, including conducting background investigations of
26 a person seeking a license, registration, or other commission
27 authorization required under Subchapter K or of any person required

1 to be named in an application for a license, registration, or other
2 commission authorization under that subchapter.

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

7 (d) Except as otherwise provided by Section 411.108(d) or
8 another provision of this chapter, criminal history record
9 information obtained by the commission under this section may be
10 disclosed only:

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

14 (2) under a court order.

15 SECTION 19. Section 466.252, Government Code, is amended to
16 read as follows:

17 Sec. 466.252. PLAYER [~~PURCHASE OF TICKET~~] AGREEMENT TO
18 ABIDE BY RULES AND INSTRUCTIONS. (a) By purchasing a ticket in a
19 particular lottery game or participating as a player in a lottery
20 game, a player agrees to abide by and be bound by the commission's
21 rules and instructions, including the rules or instructions
22 applicable to the particular lottery game involved. The player
23 also acknowledges that the determination of whether the player is a
24 valid winner is subject to:

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

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

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

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

7 SECTION 20. Section 466.3011, Government Code, is amended
8 to read as follows:

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

12 (1) an offense under this chapter;

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

14 (A) is a lottery operator, lottery vendor, sales
15 agent, video lottery manager, video lottery retailer, video lottery
16 terminal provider, video lottery central system provider, or
17 employee of the division; and

18 (B) is alleged to have committed the offense
19 while engaged in lottery activities, including video lottery
20 activities; or

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

23 SECTION 21. Subchapter G, Chapter 466, Government Code, is
24 amended by adding Section 466.3031 to read as follows:

25 Sec. 466.3031. UNAUTHORIZED OPERATION, USE, OR POSSESSION
26 OF VIDEO LOTTERY TERMINAL. (a) A person may not operate, use, or
27 possess a video lottery terminal unless the operation, use, or

1 possession is expressly authorized by this chapter or other law.

2 (b) Except for transport to or from a video lottery
3 establishment and as provided by this chapter, a person commits an
4 offense if the person operates, uses, or possesses any video
5 lottery terminal that is not at all times connected to the video
6 lottery central system or that does not generate revenue for this
7 state, except funds retained by the commission to pay
8 administrative costs. An offense under this subsection is a felony
9 of the third degree.

10 (c) Notwithstanding Subsection (b), a video lottery
11 retailer, video lottery manager, or registered or approved video
12 lottery terminal provider may store or possess a video lottery
13 terminal as authorized by the commission, and the commission may
14 possess video lottery terminals for study and evaluation.

15 (d) Nothing in this section shall be construed to prohibit
16 the operation, use, or possession of equipment, machines,
17 technological aids, or other devices allowed in connection with the
18 play of bingo under Chapter 2001, Occupations Code.

19 SECTION 22. Section 466.305(a), Government Code, is amended
20 to read as follows:

21 (a) A sales agent, video lottery manager, or video lottery
22 retailer, or an employee of a sales agent, video lottery manager, or
23 video lottery retailer, commits an offense if the person
24 intentionally or knowingly sells a ticket to another person or
25 allows the person to play or conduct a game on a video lottery
26 terminal by extending credit or lending money to the person to
27 enable the person to purchase the ticket or play the game.

1 SECTION 23. The heading to Section 466.3051, Government
2 Code, is amended to read as follows:

3 Sec. 466.3051. SALE [~~OF TICKET~~] TO OR PURCHASE OF LOTTERY
4 TICKET BY PERSON YOUNGER THAN 18; PLAY OF LOTTERY GAME BY PERSON
5 YOUNGER THAN 21 [YEARS OF AGE].

6 SECTION 24. Section 466.3051, Government Code, is amended
7 by adding Subsections (a-1) and (b-1) and amending Subsections
8 (b)-(f) to read as follows:

9 (a-1) A video lottery manager, a video lottery retailer, or
10 an employee of a video lottery manager or video lottery retailer
11 commits an offense if the person intentionally or knowingly allows
12 a person younger than 21 years of age to play a video lottery game.

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

15 (1) purchases a lottery ticket; or

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

20 (b-1) An individual who is younger than 21 years of age
21 commits an offense if the individual:

22 (1) plays a video lottery game; or

23 (2) falsely represents the individual to be 21 years
24 of age or older by displaying evidence of age that is false or
25 fraudulent or misrepresents in any way the individual's age in
26 order to play a video lottery game.

27 (c) A person 18 years of age or older may purchase a lottery

1 ticket to give as a gift to another person, including an individual
2 younger than 18 years of age.

3 (d) It is a defense to the application of Subsection (b)
4 that the individual younger than 18 years of age is participating in
5 an inspection or investigation on behalf of the commission or other
6 appropriate governmental entity regarding compliance with this
7 section. It is a defense to the application of Subsection (b-1) that
8 the individual younger than 21 years of age is participating in an
9 inspection or investigation on behalf of the commission or other
10 appropriate governmental entity regarding compliance with this
11 section.

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

14 (f) An offense under Subsection (b) or (b-1) is punishable
15 by a fine not to exceed \$250.

16 SECTION 25. Section 466.3053, Government Code, is amended
17 to read as follows:

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

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

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

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

1 SECTION 26. Section 466.306, Government Code, is amended to
2 read as follows:

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

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

11 SECTION 27. Section 466.309(a), Government Code, is amended
12 to read as follows:

13 (a) A person commits an offense if the person intentionally
14 or knowingly tampers with, damages, defaces, or renders inoperable
15 any 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 SECTION 28. The heading to Section 466.317, Government
19 Code, is amended to read as follows:

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

22 SECTION 29. Section 466.317, Government Code, is amended by
23 adding Subsection (a-1) and amending Subsections (b) and (c) to
24 read as follows:

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

27 (b) The state may enter into a compact with another state or

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

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

8 SECTION 30. Section 466.355(a), Government Code, is amended
9 to read as follows:

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

17 SECTION 31. Subchapter H, Chapter 466, Government Code, is
18 amended by adding Section 466.360 to read as follows:

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

22 SECTION 32. Section 466.402, Government Code, is amended by
23 adding Subsection (e) to read as follows:

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

26 SECTION 33. Chapter 466, Government Code, is amended by
27 adding Subchapter K to read as follows:

SUBCHAPTER K. VIDEO LOTTERY

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

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

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

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

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

(B) limiting video lottery licensing to specific licensed racetracks;

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

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

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

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

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

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

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

1 defeat the effort to raise revenue for state governmental programs
2 through authorized video lottery terminals. For these reasons, any
3 interpretation that allows for casino gaming of the type operating
4 in Nevada and New Jersey in 2005 to be conducted in this state at
5 racetracks or on Indian lands as a result of the authorization of
6 video lottery terminals would have severe adverse consequences on
7 this state's efforts to raise revenue to fund governmental programs
8 through the operation of video lottery terminals and would violate
9 the public policy against gambling in such a way that would clearly
10 outweigh any potential positive economic consequences.

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

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

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

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

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

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

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

27 (A) preclude the creation of any property right

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

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

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

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

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

20 (c) Video lottery equipment operated under commission
21 authority and this chapter is exempt from 15 U.S.C. Section 1172.

22 Sec. 466.505. AUTHORITY TO OPERATE VIDEO LOTTERY SYSTEM.

23 (a) The commission may implement and operate a video lottery system
24 and regulate the operation of video lottery terminals at racetracks
25 in accordance with this chapter and the Texas Racing Act (Article
26 179e, Vernon's Texas Civil Statutes). This chapter supersedes any
27 conflicting or inconsistent provision of the Texas Racing Act

1 (Article 179e, Vernon's Texas Civil Statutes) or other state law.

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

6 Sec. 466.506. VIDEO LOTTERY GAMES; STATE OWNERSHIP AND
7 PROPRIETARY INTEREST. (a) This state owns all video lottery games,
8 regardless of ownership of the video lottery terminal. This state
9 possesses a proprietary interest in:

10 (1) the main logic boards and any electronic storage
11 medium used in video lottery equipment or games; and

12 (2) software consisting of computer programs,
13 documentation, and other related materials necessary for the
14 operation of the video lottery system.

15 (b) For purposes of this chapter, this state may acquire a
16 proprietary interest in video lottery game software through:

17 (1) ownership of the software; or

18 (2) an exclusive product license agreement with a
19 provider in which the provider retains copyrighted ownership of the
20 software but the license granted to this state is nontransferable
21 and authorizes this state to operate the software program, solely
22 for the state's own use, on the video lottery central system and
23 video lottery terminals connected to the video lottery central
24 system.

25 Sec. 466.507. STATE CONTROL OF VIDEO LOTTERY SYSTEM. (a)
26 In accordance with Section 47(f), Article III, Texas Constitution,
27 the commission shall control and regulate the video lottery system

1 and the video lottery central system through which this state has
2 the exclusive and unilateral ability to monitor activity of video
3 lottery terminals and remotely disable video lottery terminals for
4 the public safety, health, and welfare or the preservation of the
5 integrity of the lottery and to prevent any financial loss to this
6 state.

7 (b) This section does not affect or restrict the ability of
8 a video lottery manager or video lottery retailer to monitor
9 activity of video lottery terminals and to disable video lottery
10 terminals in accordance with commission rules.

11 (c) The commission may disable a video lottery terminal if a
12 video lottery retailer's or video lottery manager's license is
13 revoked, surrendered, or summarily suspended under this subchapter
14 and to prevent any financial loss to this state.

15 Sec. 466.510. VIDEO LOTTERY CENTRAL SYSTEM. (a) The
16 commission shall establish or cause to be established a video
17 lottery central system to link all video lottery terminals in the
18 video lottery system. The video lottery central system must
19 provide the auditing and other information required by the
20 commission.

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

1 terminals.

2 (c) The video lottery central system may not limit or
3 preclude potential providers from providing the video lottery
4 terminals, except providers that fail to meet specifications
5 established by the commission.

6 (d) The commission shall determine whether a video lottery
7 central system provider may sell or distribute video lottery
8 terminals in this state as the commission considers appropriate to
9 ensure the efficiency, integrity, and security of the video lottery
10 system.

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

13 Sec. 466.511. VIDEO LOTTERY TERMINAL PROVIDER:
14 REGISTRATION OR APPROVAL REQUIRED. (a) A person may not
15 manufacture or distribute video lottery equipment for use or play
16 in this state unless the person is registered as a video lottery
17 terminal provider or is otherwise approved by the commission to
18 manufacture or distribute video lottery equipment in this state.

19 (b) Unless suspended or revoked, the registration or
20 approval expires on the date specified by the commission, which may
21 not be later than the fifth anniversary of the date of the
22 registration or approval. A person may renew an unexpired
23 registration or approval by paying the required renewal fee and
24 complying with the requirements of this subchapter and commission
25 rule.

26 (c) To be eligible for registration or commission approval
27 as required by this section, an applicant must satisfy all

1 applicable requirements under this subchapter.

2 Sec. 466.512. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION;
3 CHANGE IN INFORMATION. (a) The commission shall adopt rules
4 governing the registration or approval of video lottery terminal
5 providers. The rules must require the application and any other
6 form or document submitted to the commission by or on behalf of the
7 applicant to determine the applicant's qualification under this
8 section to be sworn to or affirmed before an officer qualified to
9 administer oaths.

10 (b) An applicant for a video lottery terminal provider
11 registration or approval must provide the following information:

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

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

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

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

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

23 (6) if the applicant is incorporated under law other
24 than the laws of this state, the applicant's irrevocable
25 designation of the secretary of state as the applicant's resident
26 agent for service of process and notice in accordance with the law
27 of this state;

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

8 (8) a list of all affiliated businesses or
9 corporations in which the applicant or an officer, director, or
10 substantial interest-holder of the applicant, either directly or
11 indirectly, owns or controls as a sole proprietor or partner more
12 than 10 percent of the voting stock of a publicly traded
13 corporation;

14 (9) a list of all businesses or corporations licensed
15 to conduct gambling activities or to supply gambling-related
16 equipment, supplies, or services in which the applicant or an
17 officer, director, or substantial interest-holder of the applicant
18 has any interest;

19 (10) a list of all jurisdictions in which the
20 applicant or an officer, director, or substantial interest-holder
21 of the applicant has been licensed, registered, qualified, or
22 otherwise approved to conduct gambling-related activities during
23 the 10 years preceding the date of the filing of the application;

24 (11) a statement, including all related details,
25 indicating whether the applicant or an officer, director, or
26 substantial interest-holder of the applicant has ever had a
27 license, registration, qualification, or other approval for

1 gambling-related activities denied, revoked, or suspended by any
2 jurisdiction or has been fined or otherwise required to pay
3 penalties or monetary forfeitures for gambling-related activities
4 in any jurisdiction; and

5 (12) a statement acknowledging that the applicant will
6 make available for review at the time and place requested by the
7 commission all records related to the ownership or operation of the
8 business.

9 (c) The commission may require the following information
10 from an applicant:

11 (1) personal financial and personal history records of
12 all substantial interest-holders;

13 (2) all records related to the scope of activity,
14 including sales of product, purchases of raw materials and parts,
15 and any contracts, franchises, patent agreements, or similar
16 contracts or arrangements related to manufacturing or distributing
17 video lottery terminals; and

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

20 (d) The applicant must demonstrate the ability to comply
21 with all manufacturing, quality control, and operational
22 restrictions imposed on authorized video lottery equipment,
23 patented or otherwise restricted video lottery games, or other
24 video lottery equipment that the applicant seeks to manufacture or
25 distribute for use in this state. The registration or approval
26 process must include an on-site review of the applicant's
27 manufacturing equipment and process for each separate type of

1 authorized video lottery equipment to ensure compliance with the
2 requirements of this chapter and commission rules.

3 (e) Not later than the 10th day after the date of any change
4 in the information submitted on or with the application form, the
5 applicant shall notify the commission of the change, including a
6 change that occurs after the registration or other commission
7 approval has been granted.

8 (f) The applicant shall comply with all federal and state
9 laws, local ordinances, and rules.

10 Sec. 466.513. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION
11 FEE. (a) An applicant seeking registration or approval or renewal
12 of registration or approval as a video lottery terminal provider
13 must pay a nonrefundable application fee in the amount prescribed
14 by commission rule that is sufficient to pay the costs to the
15 commission of administering and licensing video lottery terminals.

16 (b) Application fees paid under this section shall be
17 retained by the commission to defray costs incurred in the
18 administration and enforcement of this chapter relating to the
19 operation of video lottery terminals.

20 (c) The commission may not issue a video lottery terminal
21 provider registration or approval to a person that on January 1,
22 2005, owned any interest in a racetrack or pari-mutuel license in
23 this state.

24 Sec. 466.520. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
25 MANAGER LICENSE REQUIRED. Except as provided by a gaming
26 agreement, a person may not own or operate a video lottery terminal
27 if the person does not satisfy the requirements of this subchapter

1 and is not licensed by the commission to act as a video lottery
2 retailer or video lottery manager.

3 Sec. 466.521. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
4 MANAGER: APPLICATION AND QUALIFICATION. (a) An applicant for a
5 video lottery retailer or video lottery manager license must apply
6 to the commission under rules adopted by the commission, provide
7 the information necessary to determine the applicant's eligibility
8 for a license, and provide other information considered necessary
9 by the commission. The applicant must:

10 (1) hold a valid pari-mutuel license granted by the
11 Texas Racing Commission under the Texas Racing Act (Article 179e,
12 Vernon's Texas Civil Statutes);

13 (2) have a valid and executed contract with a
14 racetrack that satisfies the requirements of Subdivision (1) to act
15 as a video lottery manager for the racetrack subject to licensing
16 under this chapter; or

17 (3) demonstrate to the commission's satisfaction that
18 the applicant seeks to act as a video lottery manager for a
19 federally recognized Indian tribe that has entered into a gaming
20 agreement with this state that is in effect and governs the
21 regulation of video lottery terminals on Indian lands in this
22 state.

23 (b) Each 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
27 subchapter to be involved in video lottery games in this state.

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

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

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

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

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

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

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

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

16 (8) demonstrate that each substantial interest-holder
17 in the applicant meets all applicable qualifications under this
18 subchapter;

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

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

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

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

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

13 (f) An applicant for a license or renewal of a license as a
14 video lottery retailer or video lottery manager shall notify the
15 commission of any change in the application information for a
16 license or renewal of a license not later than the 10th day after
17 the date of the change, except that a publicly traded corporation or
18 other business association or entity applicant is not required to
19 notify the commission of a transfer by which any person directly or
20 indirectly becomes the beneficial owner of less than 10 percent of
21 the stock of the corporation or association.

22 (g) Except as provided by Section 466.525(e), the
23 commission shall deny an application for a license or shall suspend
24 or revoke a license if the commission finds that the applicant would
25 be subject to denial or revocation of a sales agent license under
26 Section 466.155.

27 Sec. 466.522. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY

1 MANAGER: APPLICATION FEE. (a) An applicant for a video lottery
2 retailer or video lottery manager license shall submit a
3 nonrefundable application processing fee in the amount prescribed
4 by commission rule that is sufficient and reasonable to pay the
5 costs of determining the applicant's eligibility, not to exceed
6 \$50,000.

7 (b) An application may not be processed until the applicant
8 pays the application fee. If the application fee is not received by
9 the 30th day after the date the commission notifies the applicant of
10 the amount of the fee, the application is considered withdrawn and
11 may not be considered by the commission.

12 Sec. 466.525. VIDEO LOTTERY TERMINAL ESTABLISHMENT
13 LICENSE: REQUIREMENTS; LOCATION. (a) An applicant for a video
14 lottery terminal establishment license must ensure that the
15 facility for the establishment will comply with all applicable
16 building codes and rules of the commission. The rules adopted by
17 the commission relating to facilities for video lottery
18 establishments must relate solely to this state's interest in the
19 operation of video lottery terminals.

20 (b) A video lottery terminal establishment shall provide
21 office space for the commission sufficient for at least one
22 commission employee.

23 (c) An applicant for a video lottery terminal establishment
24 license or a license holder shall provide the information required
25 by commission rule relating to the applicant's or license holder's
26 video lottery terminal establishment and update the information at
27 least annually.

1 (d) The commission may not issue a video lottery terminal
2 establishment license to a racetrack if as of January 1, 2005, a
3 property line of the licensed premises of the racetrack is located
4 within one-half mile of the property line of a public school.

5 (e) Notwithstanding Section 466.155, the commission may not
6 deny, suspend, or revoke a license under this subchapter based on
7 the fact that a video lottery terminal establishment or a proposed
8 video lottery terminal establishment is a location for which a
9 person holds a wine and beer retailer's permit, mixed beverage
10 permit, mixed beverage late hours permit, private club registration
11 permit, or private club late hours permit, issued under Chapter 25,
12 28, 29, 32, or 33, Alcoholic Beverage Code.

13 Sec. 466.526. LICENSE HOLDER AS SALES AGENT. The holder of
14 a video lottery retailer or video lottery manager license may
15 operate as a sales agent for lottery tickets in accordance with this
16 chapter.

17 Sec. 466.527. LICENSE TERM; RENEWAL ELIGIBILITY. (a)
18 Unless suspended or revoked, a license issued under this
19 subchapter, other than a video lottery retailer license, expires on
20 the date specified in the license, which may not be later than the
21 fifth anniversary of the date of issuance.

22 (b) A video lottery retailer license is valid for the same
23 term as a pari-mutuel license and until suspended or revoked. The
24 commission may charge an annual fee not to exceed \$50,000 to the
25 holder of a video lottery retailer license.

26 (c) To be eligible for renewal of a license, an applicant
27 must satisfy all applicable licensing requirements under this

1 subchapter.

2 Sec. 466.528. RULES FOR ADDITIONAL LICENSE QUALIFICATIONS.

3 The commission by rule may establish other license qualifications
4 the commission determines are in the public interest and consistent
5 with the declared policy of this state.

6 Sec. 466.529. APPLICATION AS REQUEST FOR CHARACTER

7 DETERMINATION. An application under this subchapter to receive or
8 renew a license, registration, or approval or to be found suitable
9 constitutes a request for a determination of the applicant's
10 general character, integrity, and ability to participate or engage
11 in or be associated with the operation of video lottery terminals.

12 Sec. 466.530. IMMUNITY FOR STATEMENT MADE IN PROCEEDING OR

13 INVESTIGATION. Any written or oral statement made in the course of
14 an official commission proceeding or investigative activities
15 related to an application for commission licensing, registration,
16 or other approval under this subchapter, by any member or agent or
17 any witness testifying under oath that is relevant to the purpose of
18 the proceeding is absolutely privileged and does not impose
19 liability for defamation or constitute a ground for recovery in any
20 civil action.

21 Sec. 466.531. SUITABILITY FINDING. To promote the

22 integrity and security of the lottery, the commission in its
23 discretion may require a suitability finding for any person doing
24 business with or in relation to the operation of video lottery
25 terminals who is not otherwise required to obtain a license,
26 registration, or approval from the commission for the person's
27 video lottery-related operations.

1 Sec. 466.532. SUMMARY SUSPENSION OF VIDEO LOTTERY RETAILER
2 OR VIDEO LOTTERY MANAGER LICENSE; TERMINAL DISABLED. (a) The
3 commission may summarily suspend the license of a video lottery
4 retailer or video lottery manager without notice or hearing if the
5 commission finds the action is necessary to maintain the integrity,
6 security, honesty, or fairness of the operation or administration
7 of the lottery or to prevent financial loss to this state and:

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

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

13 (3) the license holder refuses to allow the
14 commission, the commission's agents, or the state auditor, or their
15 designees, to examine the license holder's books, records, papers,
16 or other objects under Section 466.017; or

17 (4) the executive director learns the license holder
18 failed to disclose information that would, if disclosed, render the
19 video lottery retailer or video lottery manager ineligible for a
20 license under this subchapter.

21 (b) A summary suspension under this section must comply with
22 the notice and procedure requirements provided by Section 466.160.

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

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

27 (2) the commission discovers the license holder failed

1 to deposit money received from video lottery terminal operation as
2 required if the license is being summarily suspended under this
3 section; or

4 (3) an act or omission occurs that, under commission
5 rules, justifies the termination of video lottery terminal
6 operations to:

7 (A) protect the integrity of the lottery or the
8 public health, welfare, or safety; or

9 (B) prevent financial loss to this state.

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

13 Sec. 466.5321. TRANSFER RESTRICTIONS. (a) A video lottery
14 retailer or video lottery manager license is not transferable.

15 (b) A pari-mutuel license holder that sells, transfers,
16 assigns, or otherwise conveys any interest or control in the
17 pari-mutuel license or the racetrack owned or managed by the
18 license holder before video lottery operations begin at the
19 racetrack or before the third anniversary of the commencement of
20 video lottery operations shall remit to this state a transfer fee
21 equal to 75 percent of the sales, transfer, assignment, or other
22 conveyance price or other consideration received by the pari-mutuel
23 license holder. A transfer or conveyance of an interest or control
24 under this subsection is subject to Section 6.21, Texas Racing Act
25 (Article 179e, Vernon's Texas Civil Statutes).

26 (c) A sale, transfer, assignment, or conveyance of interest
27 or control to which Subsection (b) applies may not be approved by

1 the commission until this state receives the transfer fee.

2 (d) This section does not apply to a transfer or assignment
3 the commission determines is necessary to secure financing for the
4 construction or operation of the racetrack. The commission may
5 adopt rules to implement this section.

6 Sec. 466.533. LICENSING, REGISTRATION, SUITABILITY, AND
7 REGULATORY APPROVAL AS REVOCABLE PERSONAL PRIVILEGES. (a) An
8 applicant for a license, registration, suitability, or other
9 affirmative regulatory approval under this subchapter does not have
10 any right to the license, registration, suitability, or approval
11 sought.

12 (b) Any license, registration, or suitability or other
13 regulatory approval granted under this subchapter is a revocable
14 privilege, and a holder of the privilege does not acquire any vested
15 right in or under the privilege.

16 (c) The courts of this state do not have jurisdiction to
17 review a decision to deny, limit, or condition the license,
18 registration, suitability, or approval unless the judicial review
19 is sought on the ground that the denial, limitation, or condition is
20 based on a suspect classification, such as race, color, religion,
21 sex, or national origin, in violation of the Equal Protection
22 Clause of the Fourteenth Amendment to the United States
23 Constitution. If a state court has jurisdiction over a claim under
24 this section, then this state's sovereign immunity is waived only
25 to the extent expressly provided by Section 466.601.

26 (d) A license, registration, suitability, or regulatory
27 approval granted or renewed under this subchapter may not be

1 transferred or assigned to another person, and a license,
2 registration, suitability, or approval may not be pledged as
3 collateral. The purchaser or successor of a person who has been
4 granted a license, registration, suitability, or regulatory
5 approval must independently qualify for a license, registration,
6 suitability, or approval required by this subchapter.

7 (e) The following acts void the license, registration,
8 suitability, or other regulatory approval of the holder unless
9 approved in advance by the commission:

10 (1) the transfer, sale, or other disposition of an
11 interest in the holder that results in a change in the identity of a
12 substantial interest holder; or

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

17 Sec. 466.535. CAPITAL INVESTMENTS AND IMPROVEMENT
18 REQUIREMENTS FOR VIDEO LOTTERY TERMINAL ESTABLISHMENT. A video
19 lottery retailer or video lottery manager shall provide all
20 necessary capital investments and required improvements at a video
21 lottery terminal establishment operated by the retailer or manager.

22 Sec. 466.536. VIDEO LOTTERY TERMINAL. The commission shall
23 provide all video lottery retailers or video lottery managers with
24 a list of registered video lottery terminal providers, video
25 lottery games, and video lottery terminals authorized for operation
26 under this subchapter.

27 Sec. 466.537. VIDEO LOTTERY TERMINAL: DISTRIBUTION AND

1 COMMISSION APPROVAL. (a) A video lottery terminal provider may not
2 distribute a video lottery terminal or other video lottery
3 equipment for placement at a video lottery terminal establishment
4 in this state unless the video lottery terminal has been approved by
5 the commission.

6 (b) Only a video lottery terminal provider registered with
7 or approved by the commission may apply for approval of a video
8 lottery terminal or other video lottery equipment.

9 (c) Not later than the 10th day before the date of shipment
10 to a location in this state, a video lottery terminal provider shall
11 file a report with the commission itemizing all video lottery
12 terminals and other video lottery equipment to be provided to a
13 video lottery retailer or video lottery manager in the shipment.

14 Sec. 466.538. VIDEO LOTTERY TERMINAL: TESTING; REPORT. (a)
15 A video lottery terminal provider shall submit two copies of
16 terminal illustrations, schematics, block diagrams, circuit
17 analysis, technical and operation manuals, and any other
18 information requested by the commission for the purpose of
19 analyzing and testing the video lottery terminal or other video
20 lottery equipment.

21 (b) The commission may require a working model of a video
22 lottery terminal to be provided to the commission unless the video
23 lottery terminal provider provides a certification from an
24 independent, commission-approved testing laboratory that the video
25 lottery terminal is compatible with the state's video lottery
26 system and functions as required by the commission.

27 Sec. 466.539. VIDEO LOTTERY TERMINAL: INSTALLATION;

1 MODIFICATION REQUEST. (a) A video lottery terminal provider is
2 responsible for the assembly and installation of all video lottery
3 terminals and other video lottery equipment.

4 (b) A video lottery terminal provider or a video lottery
5 retailer or video lottery manager may not change the assembly or
6 operational functions of a video lottery terminal authorized by the
7 commission for placement in this state unless a request for
8 modification of an existing video lottery terminal prototype is
9 approved by the commission. The request must contain:

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

11 (2) a detailed description of the reasons for the
12 change; and

13 (3) technical documentation of the change.

14 (c) A video lottery terminal approved by the commission for
15 placement at a video lottery terminal establishment must conform to
16 the specifications of the video lottery terminal prototype tested
17 or approved by the commission.

18 Sec. 466.540. VIDEO LOTTERY TERMINAL REMOVAL. (a) If any
19 video lottery terminal that has not been approved by the commission
20 is distributed by a video lottery terminal provider or operated by a
21 video lottery retailer or video lottery manager or if an approved
22 video lottery terminal malfunctions, the commission shall require
23 the terminal to be removed from use and play.

24 (b) The commission may order that an unapproved terminal be
25 seized and destroyed.

26 (c) The commission may suspend or revoke the license of a
27 video lottery retailer or video lottery manager or the registration

1 of a video lottery terminal provider for the distribution,
2 possession, or operation of an unauthorized video lottery terminal.

3 (d) A video lottery retailer or video lottery manager may
4 retain on the premises of a video lottery establishment a number of
5 machines that the retailer or manager determines is necessary for
6 spare parts or repair purposes or as replacements. The retailer or
7 manager must provide to the commission each month a list of the
8 terminals retained under this subsection.

9 Sec. 466.541. VIDEO LOTTERY TERMINAL SPECIFICATIONS. (a)
10 The commission shall adopt rules for approval of video lottery
11 terminals, including requirements for video lottery game tickets,
12 maximum and minimum payout, and maximum wagers.

13 (b) A commission-approved video lottery terminal must meet
14 the following minimum specifications:

15 (1) the terminal must:

16 (A) operate through a player's insertion of a
17 coin, currency, voucher, or token into the video lottery terminal
18 that causes the video lottery terminal to display credits that
19 entitle the player to select one or more symbols or numbers or cause
20 the video lottery terminal to randomly select symbols or numbers;

21 (B) allow the player to win additional game play
22 credits, coins, or tokens based on game rules that establish the
23 random selection of winning combinations of symbols or numbers and
24 the number of free play credits, coins, or tokens to be awarded for
25 each winning combination; and

26 (C) allow the player at any time to clear all game
27 play credits and receive a video lottery ticket entitling the

1 player to receive the cash value of those credits;

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

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

13 (4) the main logic boards of all electronic storage
14 mediums must be located in a separate compartment in the video
15 lottery terminal that is locked and sealed by the commission;

16 (5) the instructions for play of each game must be
17 displayed on the video lottery terminal face or screen, including a
18 display detailing the credits awarded for the occurrence of each
19 possible winning combination of numbers or symbols;

20 (6) communication equipment and devices must be
21 installed to enable each video lottery terminal to communicate with
22 the video lottery central system through the use of a
23 communications protocol provided by the commission to each
24 registered video lottery terminal provider, which must include
25 information retrieval and programs to activate and disable the
26 terminal; and

27 (7) a video lottery terminal may be operated only if

1 connected to the video lottery central system, and play on the
2 terminal may not be conducted unless the terminal is connected to
3 the video lottery central system.

4 (c) The commission may reject any instructions for play
5 required under Subsection (b)(5) that the commission determines to
6 be incomplete, confusing, or misleading.

7 Sec. 466.542. VIDEO LOTTERY TERMINALS: HOURS OF OPERATION;
8 COMMUNICATION; LOCATION. (a) Except as otherwise provided by the
9 commission, the hours of operation for video lottery terminals are
10 subject to restrictions only as provided by commission rules.

11 (b) The commission by rule may prescribe restrictions on the
12 hours of video lottery terminal operations for purposes determined
13 by the commission, including accounting for and collecting revenue
14 generated by video lottery terminal operations and performing other
15 operational services on the video lottery system.

16 (c) Communication between the video lottery central system
17 and each video lottery terminal must be continuous and on a
18 real-time basis as prescribed by the commission.

19 (d) Except as provided by a gaming agreement or commission
20 rule, placement or movement of video lottery terminals in a video
21 lottery terminal establishment must be consistent with a video
22 lottery terminal establishment floor plan filed with the
23 commission.

24 Sec. 466.543. VIDEO LOTTERY TERMINAL: TRANSPORT;
25 DISPOSITION OF OBSOLETE TERMINAL. (a) The transportation and
26 movement of video lottery terminals into or within this state is
27 prohibited, except as permitted by this subchapter and approved by

1 the commission.

2 (b) An obsolete video lottery terminal or a video lottery
3 terminal that is no longer in operation must be promptly reported to
4 the commission.

5 Sec. 466.5455. TRAVEL AND INVESTIGATION COSTS. The
6 commission shall pay the travel and investigative expenses incurred
7 under this chapter from money appropriated to the commission.

8 Sec. 466.546. CONSENT TO COMMISSION DETERMINATION. (a) An
9 application for a license, registration, finding of suitability, or
10 other approval under this chapter constitutes a request to the
11 commission for a decision on the applicant's general suitability,
12 character, integrity, and ability to participate or engage in or be
13 associated with the lottery in the manner or position sought.

14 (b) By filing an application with the commission, the
15 applicant specifically consents to the commission's decision at the
16 commission's election when the application, after filing, becomes
17 moot for any reason other than death.

18 Sec. 466.547. ABSOLUTE AUTHORITY OF COMMISSION. To protect
19 the integrity of the lottery or the public health, welfare, or
20 safety, or to prevent financial loss to this state, the commission
21 has full and absolute power and authority to:

22 (1) deny any application or limit, condition,
23 restrict, revoke, or suspend any license, registration, or finding
24 of suitability or approval; and

25 (2) fine any person licensed, registered, found
26 suitable, or approved for any cause deemed reasonable by the
27 commission.

1 Sec. 466.548. WAIVER OF REQUIREMENTS. (a) The commission
2 may waive, either selectively or by general rule, one or more of the
3 requirements of Sections 466.512 and 466.521 if the commission
4 makes a written finding that the waiver is consistent with the
5 policy of this state, the public health, safety, and welfare, and
6 the integrity of the lottery.

7 (b) The commission may waive any requirement under this
8 chapter for a finding of suitability of an institutional investor
9 that is a substantial interest holder with respect to the
10 beneficial ownership of the voting securities of a publicly traded
11 corporation if the institutional investor holds the securities for
12 investment purposes only and applies for a waiver in compliance
13 with Section 466.549 and commission rules.

14 (c) An institutional investor is not eligible for the
15 waiver, except as otherwise provided by Subsection (f), if the
16 institutional investor beneficially owns, directly or indirectly,
17 more than 15 percent of the voting securities and if any of the
18 voting securities were acquired other than through a debt
19 restructuring.

20 (d) Voting securities acquired before a debt restructuring
21 and retained after a debt restructuring or as a result of an
22 exchange, exercise, or conversion after a debt restructuring, or
23 any securities issued to the institutional investor through a debt
24 restructuring, are considered to have been acquired through a debt
25 restructuring.

26 (e) A waiver granted under Subsection (b) is effective only
27 as long as the institutional investor's direct or indirect

1 beneficial ownership interest in the voting securities meets the
2 limitations set forth in this section, and if the institutional
3 investor's interest exceeds the limitation at any time, the
4 investor is subject to the suitability findings required under this
5 subchapter.

6 (f) An institutional investor that has been granted a waiver
7 under Subsection (b) may beneficially own more than 15 percent, but
8 not more than 19 percent, of the voting securities of a publicly
9 traded corporation registered with or licensed by the commission
10 only:

11 (1) if the additional ownership results from a stock
12 repurchase program conducted by the publicly traded corporation;
13 and

14 (2) on the conditions that:

15 (A) the institutional investor does not purchase
16 or otherwise acquire any additional voting securities of the
17 publicly traded corporation that would result in an increase in the
18 institutional investor's ownership percentage; and

19 (B) the institutional investor reduces its
20 ownership percentage of the publicly traded corporation to 15
21 percent or less before the first anniversary of the date the
22 institutional investor receives constructive notice that it
23 exceeded the 15 percent threshold, based on any public filing by the
24 corporation with the United States Securities and Exchange
25 Commission.

26 (g) The one-year time period under Subsection (f)(2)(B) may
27 be extended for a reasonable time on commission approval.

1 (h) An institutional investor may not be considered to hold
2 voting securities of a publicly traded corporation for investment
3 purposes only unless the voting securities were acquired and are
4 held in the ordinary course of business as an institutional
5 investor and not for the purpose of causing, directly or
6 indirectly, the election of a majority of the members of the board
7 of directors, any change in the corporate charter, bylaws,
8 management, policies, or operations of the corporation registered
9 with or licensed by the commission or any of its gaming affiliates,
10 or any other action which the commission finds to be inconsistent
11 with investment purposes only. The following activities may not be
12 considered to be inconsistent with holding voting securities for
13 investment purposes only:

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

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

19 (3) nominating any candidate for election or
20 appointment to the board of directors in connection with a debt
21 restructuring;

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

25 (5) making financial and other inquiries of management
26 of the type normally made by securities analysts for information
27 purposes and not to cause a change in management, policies, or

1 operations; and

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

4 (i) For purposes of this section, "debt restructuring"
5 means:

6 (1) a proceeding under the United States Bankruptcy
7 Code; or

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

11 Sec. 466.549. WAIVER APPLICATION REQUIREMENTS. An
12 application for a waiver under Section 466.548(b) must include:

13 (1) a description of the institutional investor's
14 business and a statement as to why the institutional investor meets
15 the definition of an institutional investor set forth in this
16 chapter;

17 (2) a certification, made under oath and penalty of
18 perjury, that:

19 (A) states that the voting securities were
20 acquired and are held for investment purposes only in accordance
21 with Section 466.548;

22 (B) provides that the applicant agrees to be
23 bound by and comply with this chapter and the rules adopted under
24 this chapter, to be subject to the jurisdiction of the courts of
25 this state, and to consent to this state as the choice of forum in
26 the event any dispute, question, or controversy arises regarding
27 the application or any waiver granted under Section 466.548(b); and

1 (C) includes a statement by the signatory
2 explaining the basis of the signatory's authority to sign the
3 certification and bind the institutional investor to its terms;

4 (3) a description of all actions, if any, taken or
5 expected to be taken by the institutional investor related to the
6 activities described in Section 466.548(f);

7 (4) the names, addresses, telephone numbers, dates of
8 birth, and social security numbers of:

9 (A) the officers and directors of the
10 institutional investor or the officers' and directors' equivalents;
11 and

12 (B) the persons that have direct control over the
13 institutional investor's holdings of voting securities of the
14 publicly traded corporation registered with or licensed by the
15 commission;

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

22 (6) the name of each person that beneficially owns
23 more than five percent of the institutional investor's voting
24 securities or other equivalent;

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

26 (8) a list of all securities of the publicly traded
27 corporation registered with or licensed by the commission that are

1 or were beneficially owned by the institutional investor or its
2 affiliates in the preceding year, including a description of the
3 securities, the amount of the securities, and the date of
4 acquisition or sale of the securities;

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

11 (10) a disclosure of all criminal or regulatory
12 sanctions imposed during the preceding 10 years and of any
13 administrative or court proceedings filed by any regulatory agency
14 during the preceding five years against the institutional investor,
15 its affiliates, any current officer or director, or any former
16 officer or director whose tenure ended within the preceding 12
17 months, except that for a former officer or director, the
18 information need be provided only to the extent that it relates to
19 actions arising out of or during the person's tenure with the
20 institutional investor or its affiliates;

21 (11) a copy of the institutional investor's most
22 recent Schedule 13D or 13G and any amendments to that schedule filed
23 with the United States Securities and Exchange Commission
24 concerning any voting securities of the publicly traded corporation
25 registered with or licensed by the commission;

26 (12) a copy of any filing made under the Securities
27 Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) with respect to

1 the acquisition or proposed acquisition of voting securities of the
2 publicly traded corporation registered with or licensed by the
3 commission; and

4 (13) any additional information the commission may
5 request.

6 Sec. 466.550. CHANGE IN INVESTMENT FOLLOWING WAIVER;
7 NOTICE. (a) An institutional investor that has been granted a
8 waiver of a finding of suitability under Section 466.548 and that
9 subsequently intends not to hold the investor's voting securities
10 of the publicly traded corporation for investment purposes only or
11 that intends to take any action inconsistent with the investor's
12 prior intent shall, not later than the second business day after the
13 date of the decision, deliver notice to the commission in writing of
14 the change in the investor's investment intent. The commission may
15 then take any action the commission deems appropriate.

16 (b) If the commission finds that an institutional investor
17 has failed to comply with this chapter or should be subject to a
18 finding of suitability to protect the public interest, the
19 commission may require the institutional investor to apply for a
20 finding of suitability.

21 (c) Any publicly traded corporation registered with or
22 licensed by the commission shall immediately notify the commission
23 of any information about, fact concerning, or actions of an
24 institutional investor holding any of its voting securities that
25 may materially affect the institutional investor's eligibility to
26 hold a waiver under Section 466.548.

27 Sec. 466.551. EFFECT OF DENIAL OF LICENSE OR REGISTRATION.

1 (a) A person whose application for a license or registration has
2 been denied may not have any interest in or association with a video
3 lottery retailer or video lottery manager or any other business
4 conducted in connection with video lottery without prior approval
5 of the commission.

6 (b) Any contract between a person holding a license or
7 registration and a person denied a license or registration must be
8 terminated immediately on receipt of notice from the commission.
9 If the person denied a license or registration has previously been
10 granted a temporary license or registration, the temporary license
11 or registration expires immediately on denial of the permanent
12 license or registration.

13 (c) Except as otherwise authorized by the commission, a
14 person denied a license or registration may not reapply for any
15 license or registration before the second anniversary of the date
16 of the denial.

17 Sec. 466.553. PRACTICE BY VIDEO LOTTERY RETAILER OR VIDEO
18 LOTTERY MANAGER. A video lottery retailer or video lottery manager
19 must:

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

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

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

25 (4) promptly report all video lottery terminal
26 malfunctions and down-time;

27 (5) install, post, and display prominently any

1 material required by the commission;

2 (6) prohibit illegal gambling and any related
3 paraphernalia;

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

7 (8) supervise employees and activities to ensure
8 compliance with all commission rules and this chapter;

9 (9) maintain continuous camera coverage of all aspects
10 of video lottery game operations, including video lottery
11 terminals; and

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

17 Sec. 466.554. RACETRACK REQUIREMENTS. (a) A video lottery
18 retailer at all times must hold a valid pari-mutuel wagering
19 license, except that the commission may allow a video lottery
20 retailer whose pari-mutuel wagering license has lapsed or been
21 revoked, suspended, or surrendered to reapply for a license in
22 order to operate the video lottery terminal establishment or by
23 rule may establish a period not to exceed two years during which
24 time the video lottery terminal establishment may be operated
25 pending acquisition by a person qualified and licensed under this
26 chapter to operate video lottery terminals.

27 (b) If a video lottery retailer is not licensed as required

1 by Subsection (a) before the second anniversary of the date a
2 license lapses or is revoked, suspended, or surrendered or a new
3 video lottery manager or video lottery retailer is not licensed and
4 authorized to operate the facility before the second anniversary,
5 the pari-mutuel license holder shall permanently lose eligibility
6 under this subchapter to operate video lottery terminals.

7 (c) Subject to the commission's discretion, a video lottery
8 retailer may continue to operate the video lottery terminal
9 establishment after the second anniversary of the date a license
10 lapses or is revoked, suspended, or surrendered only to satisfy the
11 establishment's existing outstanding debt attributable to video
12 lottery operation.

13 Sec. 466.556. PRIZE RULES. The commission shall adopt
14 rules governing:

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

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

19 Sec. 466.557. VIDEO LOTTERY CENTRAL SYSTEM: COMMUNICATION
20 TECHNOLOGY. The video lottery central system provider shall pay
21 for the installation and operation of commission-approved
22 communication technology to provide real-time communication
23 between each video lottery terminal and the video lottery central
24 system.

25 Sec. 466.558. RESPONSIBILITY FOR VIDEO LOTTERY GAME
26 OPERATIONS. (a) A video lottery retailer or a video lottery
27 manager, if applicable, is responsible for the management of video

1 lottery game operations, including:

2 (1) the validation and payment of prizes; and

3 (2) the management of cashiers, food and beverage
4 workers, floor workers, security personnel, the security system,
5 building completion, janitorial services, landscaping design, and
6 maintenance.

7 (b) Nothing in Subsection (a) limits the authority of the
8 commission, the Department of Public Safety, or another law
9 enforcement agency to administer and enforce this chapter as
10 related to video lottery.

11 (c) In addition to other requirements under this chapter
12 relating to video lottery, a video lottery retailer or a video
13 lottery manager at all times shall:

14 (1) operate only video lottery terminals that are
15 distributed by a registered video lottery terminal provider and
16 provide a secure location for the placement, operation, and play of
17 the video lottery terminals;

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

20 (3) ensure that communication technology from the
21 video lottery central system to the video lottery terminals is
22 connected at all times and prevent any person from tampering or
23 interfering with the operation of the connection;

24 (4) ensure that video lottery terminals are in the
25 sight and control of designated employees of the video lottery
26 retailer or video lottery manager and in the sight of video cameras
27 as required under this subchapter;

1 (5) ensure that video lottery terminals are placed and
2 remain placed in the locations in the video lottery terminal
3 establishment that are consistent with the retailer's or manager's
4 floor plan;

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

8 (7) refuse to accept a credit card payment from a
9 player for the exchange or purchase of video lottery game credits or
10 for an advance of coins, currency, vouchers, or tokens to be used by
11 a player to play video lottery games, refuse to extend credit, in
12 any manner, to a player that enables the player to play a video
13 lottery game, and ensure that any person doing business at the video
14 lottery terminal establishment, including a person operating or
15 managing an auxiliary service such as a restaurant, refuses to
16 accept a credit card payment or to extend credit to a person to play
17 a video lottery game in a manner prohibited by this subdivision,
18 except that:

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

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

27 (8) pay all credits won by a player on presentment of a

1 valid winning video lottery game ticket;

2 (9) conduct only the video lottery game advertising
3 and promotional activities consistent with criteria prescribed by
4 the commission, which must prohibit undue influence, offensive
5 language, and anything that would affect the integrity of video
6 lottery operation;

7 (10) install, post, and display prominently at the
8 licensed location redemption information and other informational
9 or promotional materials as required by the commission;

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

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

15 (13) annually submit an audited financial statement to
16 the commission in accordance with generally accepted accounting
17 principles.

18 Sec. 466.560. TECHNICAL STANDARDS FOR VIDEO LOTTERY
19 EQUIPMENT. The commission by rule shall establish minimum
20 technical standards for video lottery equipment that may be
21 operated in this state.

22 Sec. 466.561. INCIDENT REPORTS. (a) A video lottery
23 retailer or video lottery manager shall record all unusual
24 occurrences related to gaming activity in a video lottery terminal
25 establishment operated by the retailer or manager.

26 (b) A video lottery retailer or video lottery manager shall
27 assign each material incident, without regard to materiality, a

1 sequential number and, at a minimum, provide the following
2 information in a permanent record prepared in accordance with
3 commission rules to ensure the integrity of the record:

4 (1) the number assigned to the incident;

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

6 (3) the nature of the incident;

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

8 (5) the name of the employee or other agent of the
9 video lottery retailer or video lottery manager who investigated
10 the incident.

11 Sec. 466.562. EXCLUSION OF PERSONS. (a) The commission
12 shall compile a list of persons that a video lottery retailer or
13 video lottery manager must bar from a video lottery terminal
14 establishment based on a person's criminal history or association
15 with criminal offenders or because the person poses a threat to the
16 integrity of the lottery.

17 (b) A video lottery retailer or video lottery manager shall
18 employ the retailer's or manager's best efforts to exclude such
19 persons from entry into the establishment.

20 (c) A video lottery retailer or video lottery manager may
21 exclude a person for any reason not related to the person's race,
22 sex, national origin, physical disability, or religion.

23 (d) A person who believes the person may be playing video
24 lottery games on a compulsive basis may request that the person's
25 name be placed on the list compiled by the commission under
26 Subsection (a).

27 (e) All video lottery game employees shall receive training

1 in identifying players with a compulsive playing problem. Signs
2 and other materials shall be readily available to direct compulsive
3 players to agencies that offer appropriate counseling.

4 Sec. 466.563. REPORT ON LITIGATION. (a) A video lottery
5 retailer or video lottery manager shall report to the commission
6 any litigation relating to the retailer's or manager's video
7 lottery terminal establishment, including a criminal proceeding, a
8 proceeding involving an issue related to racing activities that
9 impact video lottery operations, or a matter related to character
10 or reputation relevant to a person's suitability under this
11 subchapter.

12 (b) The report required under Subsection (a) must be filed
13 not later than the fifth day after acquiring knowledge of the
14 litigation.

15 Sec. 466.564. COMMISSION APPROVAL REQUIRED FOR PROCEDURES
16 AND ADMINISTRATIVE AND ACCOUNTING CONTROLS. (a) The commission's
17 approval is required for all internal procedures and administrative
18 and accounting controls of a video lottery retailer or video
19 lottery manager.

20 (b) The commission by rule shall establish general
21 accounting and auditing requirements and internal control
22 standards for video lottery retailers and video lottery managers.

23 Sec. 466.566. VIDEO LOTTERY TERMINAL EVENTS. A video
24 lottery retailer or video lottery manager shall keep a database of
25 video lottery terminal events. The commission by rule shall
26 determine what constitutes a video lottery terminal event for
27 purposes of this section.

1 Sec. 466.567. EMPLOYEE REPORTING. (a) On or before the
2 15th day of each month, a video lottery retailer or video lottery
3 manager shall submit to the commission an employee report for the
4 video lottery terminal establishment operated by the retailer or
5 manager. For each employee of the retailer or manager, the report
6 must provide the employee's name, job title, date of birth, and
7 social security number.

8 (b) The employee report is confidential and may not be
9 disclosed except under commission order or in accordance with
10 Section 466.022(d).

11 (c) The commission may conduct criminal history
12 investigations for employees of video lottery retailers and video
13 lottery managers.

14 (d) The commission may prohibit an employee from performing
15 any act relating to video lottery terminals if the commission finds
16 that an employee has:

17 (1) committed, attempted, or conspired to commit any
18 act prohibited by this chapter;

19 (2) concealed or refused to disclose any material fact
20 in any commission investigation;

21 (3) committed, attempted, or conspired to commit
22 larceny or embezzlement;

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

25 (5) accepted employment in a position for which
26 commission approval is required after commission approval was
27 denied for a reason involving personal unsuitability or after

1 failing to apply for a license or approval on commission request;

2 (6) been prohibited under color of governmental
3 authority from being present on the premises of any gaming
4 establishment or any establishment where pari-mutuel wagering is
5 conducted for any reason relating to improper gambling activity or
6 for any illegal act;

7 (7) wilfully defied any legislative investigative
8 committee or other officially constituted body acting on behalf of
9 the United States or any state, county, or municipality that sought
10 to investigate alleged or potential crimes relating to gaming,
11 corruption of public officials, or any organized criminal
12 activities; or

13 (8) been convicted of any felony or any crime
14 involving moral turpitude.

15 (e) The commission may prohibit an employee from performing
16 any act relating to video lottery terminals based on a revocation or
17 suspension of any gaming or wagering license, permit, or approval
18 or for any other reason the commission finds appropriate, including
19 a refusal by a regulatory authority to issue a license, permit, or
20 other approval for the employee to engage in or be involved with the
21 lottery or with regulated gaming or pari-mutuel wagering in any
22 jurisdiction.

23 (f) In this section, "employee" includes any person
24 connected directly with or compensated by an applicant or license
25 holder as an agent, personal representative, consultant, or
26 independent contractor for activities directly related to video
27 lottery operations.

1 Sec. 466.568. REPORT OF VIOLATIONS. A person who holds a
2 license or registration under this subchapter shall immediately
3 report a violation or suspected violation of this chapter or a rule
4 adopted under this chapter by any license or registration holder,
5 by an employee of a license or registration holder, or by any person
6 on the premises of a video lottery terminal establishment, whether
7 or not associated with the license or registration holder.

8 Sec. 466.569. SECURITY. (a) In addition to the security
9 provisions applicable under Section 466.020, a video lottery
10 retailer or video lottery manager shall comply with the following
11 security procedures:

12 (1) all video lottery terminals must be continuously
13 monitored through the use of a closed-circuit television system
14 that records activity for a continuous 24-hour period and all video
15 tapes or other media used to store video images shall be retained
16 for at least 30 days and made available to the commission on
17 request;

18 (2) access to video lottery terminal areas shall be
19 restricted to persons who are at least 21 years of age;

20 (3) the video lottery retailer or video lottery
21 manager must submit for commission approval a security plan that
22 includes a floor plan of the area where video lottery terminals are
23 to be operated showing video lottery terminal locations and
24 security camera mount locations; and

25 (4) each license holder shall employ at least the
26 minimum number of private security personnel the commission
27 determines is necessary to provide for safe and approved operation

1 of the video lottery terminal establishment and the safety and
2 well-being of the players.

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

5 (c) An agent or employee of the commission or the Department
6 of Public Safety or other law enforcement personnel may be present
7 at a video lottery terminal establishment at any time.

8 (d) The commission may adopt rules to impose additional
9 surveillance and security requirements related to video lottery
10 terminal establishments and the operation of video lottery
11 terminals.

12 Sec. 466.570. VIDEO LOTTERY TERMINAL ESTABLISHMENT:
13 COMMISSION RIGHT TO ENTER. The commission, the commission's
14 representative, the Texas Racing Commission, or a representative of
15 the Texas Racing Commission, after displaying appropriate
16 identification and credentials, has the free and unrestricted right
17 to enter the premises of a video lottery terminal establishment and
18 to enter any other locations involved in operation or support of
19 video lottery at all times to examine the systems and to inspect and
20 copy the records of a video lottery retailer or video lottery
21 manager pertaining to the operation of video lottery.

22 Sec. 466.587. INDEMNIFICATION, INSURANCE, AND BONDING
23 REQUIREMENTS. (a) A license or registration holder shall
24 indemnify and hold harmless this state, the commission, and all
25 officers and employees of this state and the commission from any and
26 all claims which may be asserted against a license or registration
27 holder, the commission, this state, and the members, officers,

1 employees, and authorized agents of this state or the commission
2 arising from the license or registration holder's participation in
3 the video lottery system authorized under this subchapter.

4 (b) Surety and insurance required under this subchapter
5 shall be issued by companies or financial institutions financially
6 rated "A" or better as rated by A.M. Best Company or other rating
7 organization designated by the commission and duly licensed,
8 admitted, and authorized to conduct business in this state, or by
9 other surety approved by the commission.

10 (c) The commission shall be named as the obligee in each
11 required surety and as an additional insured in each required
12 insurance contract.

13 (d) A video lottery retailer or video lottery manager may
14 not be self-insured with regard to video lottery terminal
15 operations under this section.

16 (e) The commission by rule shall establish minimum
17 insurance coverage requirements for a video lottery retailer, video
18 lottery manager, or video lottery terminal provider.

19 Sec. 466.588. LIABILITY FOR CREDIT AWARDED OR DENIED;
20 PLAYER DISPUTE. (a) This state and the commission are not liable
21 for any video lottery terminal malfunction or error by a video
22 lottery retailer, video lottery manager, or video lottery terminal
23 provider that causes credit to be wrongfully awarded or denied to
24 players.

25 (b) Any dispute arising between a player and a video lottery
26 retailer or video lottery manager shall be resolved by the
27 commission as follows:

1 (1) if the fair market value of the prize is less than
2 \$1,000, the dispute shall be resolved in accordance with the
3 commission-approved written policies of the video lottery retailer
4 or video lottery manager and without any relief available from the
5 commission or this state; or

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

9 (c) A court of this state does not have jurisdiction to
10 review the decision of the commission resolving a dispute between a
11 player and a video lottery retailer, video lottery manager, or
12 video lottery terminal provider.

13 Sec. 466.589. STATE VIDEO LOTTERY ACCOUNT. (a) The
14 commission shall deposit funds received under this subchapter to
15 the state video lottery account. The state video lottery account is
16 a special account in the general revenue fund. The account consists
17 of all revenue received by this state from the operation of video
18 lottery terminals.

19 (a-1) Except as provided by Subsection (b), all revenue
20 received by this state from the operation of the video lottery
21 system shall be distributed solely to reimburse the commission
22 until the \$5 million authorized under this subsection is repaid to
23 the state lottery account. From funds previously appropriated to
24 the commission for the state fiscal biennium ending August 31,
25 2007, and notwithstanding Section 466.355(b), the commission is
26 authorized to expend an amount not to exceed \$5 million from the
27 state lottery account during that biennium to establish the video

1 lottery system in accordance with this chapter. From revenue
2 deposited in the state video lottery account during that biennium,
3 the commission is hereby appropriated the amount necessary to
4 reimburse the state lottery account for the total amount of funds
5 expended to establish the video lottery system from the
6 appropriation to the state lottery account, and the commission
7 shall deposit that amount to the state lottery account. This
8 subsection expires January 1, 2009.

9 (b) Two percent of the net terminal income received by this
10 state under Section 466.590 shall be allocated to the commission to
11 defray expenses incurred in administering this chapter related to
12 video lottery, including expenses incurred to operate the video
13 lottery central system. All money allocated to the commission
14 under this subsection may be retained by the commission to defray
15 expenses of administering this chapter related to video lottery and
16 shall be deposited in the state video lottery account.

17 Sec. 466.590. ALLOCATION OF NET TERMINAL INCOME; TRANSFER
18 OF MONEY. (a) Net terminal income derived from the operation of
19 video lottery games in this state is allocated as follows:

20 (1) a portion of the net terminal income generated in
21 each calendar year shall be remitted to this state by the video
22 lottery retailer or video lottery manager in an amount equal to 30
23 percent of the net terminal income for that year; and

24 (2) the remainder shall be retained by the video
25 lottery retailer or video lottery manager.

26 (b) Net terminal income derived from the operation of video
27 lottery terminals on Indian lands under a gaming agreement

1 authorized under this subchapter shall be distributed as set forth
2 in the gaming agreement, provided that the agreement must provide
3 that this state shall receive no more than 25 percent of the net
4 terminal income.

5 (c) One-quarter of one percent of the net terminal income
6 received by this state under Subsections (a) and (b) shall be
7 transferred to the Texas Commission on Alcohol and Drug Abuse for
8 use in the compulsive gambling program under Section 461.018,
9 Health and Safety Code, if that program is in operation.

10 (d) One-quarter of one percent of the net terminal income
11 received by this state under Subsections (a) and (b) shall be
12 transferred to the Equine Research Program at the College of
13 Veterinary Medicine at Texas A&M University for use in equine
14 research under Subchapter F, Chapter 88, Education Code.

15 (e) The commission shall require a video lottery retailer or
16 video lottery manager to establish a separate electronic funds
17 transfer account for depositing money from video lottery terminal
18 operations, making payments to the commission or its designee, and
19 receiving payments from the commission or its designee.

20 (f) A video lottery retailer or video lottery manager may
21 not make payments to the commission in cash. As authorized by the
22 commission, a video lottery retailer or video lottery manager may
23 make payments to the commission by cashier's check.

24 (g) The commission at least weekly shall transfer this
25 state's share of net terminal income of a video lottery retailer or
26 video lottery manager to the commission through the electronic
27 transfer of the money.

1 (h) The commission by rule shall establish the procedures
2 for:

3 (1) depositing money from video lottery terminal
4 operations into electronic funds transfer accounts; and

5 (2) handling money from video lottery terminal
6 operations.

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

19 (j) In the commission's sole discretion, rather than
20 disable a license holder's video lottery terminals under Subsection
21 (i), the commission may elect to impose a fine on a license holder
22 in an amount determined by the commission not to exceed \$250,000 for
23 each violation. If the license holder fails to remedy the
24 violation, including payment of any amounts assessed by or due to
25 this state, within 10 days, the commission may disable the license
26 holder's video lottery terminals or use any other means for
27 collection as provided by the penalty chart established by the

1 commission.

2 (k) A video lottery retailer or video lottery manager is
3 solely responsible for resolving any income discrepancies between
4 actual money collected and the net terminal income reported by the
5 video lottery central system. Unless an accounting discrepancy is
6 resolved in favor of the video lottery retailer or video lottery
7 manager, the commission may not make any credit adjustments. Any
8 accounting discrepancies which cannot otherwise be resolved shall
9 be resolved in favor of the commission.

10 (l) A video lottery retailer and video lottery manager shall
11 remit payment as directed by the commission if the electronic
12 transfer of money is not operational or the commission notifies the
13 license holder that other remittance is required. The license
14 holder shall report this state's share of net terminal income, and
15 remit the amount generated from the terminals during the reporting
16 period.

17 Sec. 466.591. COMMISSION EXAMINATION OF FINANCIAL RECORDS.
18 The commission may examine all accounts, bank accounts, financial
19 statements, and records in the possession or control of a person
20 licensed under this subchapter or in which the license holder has an
21 interest. The license holder must authorize and direct all third
22 parties in possession or in control of the accounts or records to
23 allow examination of any of those accounts or records by the
24 commission.

25 Sec. 466.592. FINANCIAL INFORMATION REQUIRED. (a) A video
26 lottery retailer or video lottery manager shall furnish to the
27 commission all information and bank authorizations required to

1 facilitate the timely transfer of money to the commission.

2 (b) A video lottery retailer or video lottery manager must
3 provide the commission advance notice of any proposed account
4 changes in information and bank authorizations to assure the
5 uninterrupted electronic transfer of money.

6 (c) The commission is not responsible for any interruption
7 or delays in the transfer of money. The video lottery retailer or
8 video lottery manager is responsible for any interruption or delay
9 in the transfer of money.

10 Sec. 466.593. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT
11 RACETRACKS. (a) Unless otherwise agreed to under Subsection (c) by
12 the pari-mutuel license holder that owns or operates a horse
13 racetrack at which video lottery games are conducted under this
14 subchapter and the officially recognized horsemen's organization
15 representing the horsemen at the racetrack, the license holder
16 shall allocate 6.5 percent of the net terminal income generated
17 from the operation of video lottery terminals at the racetrack to
18 purses.

19 (b) Unless otherwise agreed to under Subsection (c) by the
20 pari-mutuel license holder that owns or operates a greyhound
21 racetrack at which video lottery games are conducted under this
22 subchapter and the state breed registry representing the greyhound
23 breeders at the racetrack, the license holder shall allocate 6.5
24 percent of the net terminal income generated from the operation of
25 video lottery terminals at the racetrack to purses.

26 (c) The pari-mutuel license holder that owns or operates a
27 racetrack at which video lottery games are conducted under this

1 subchapter and the officially recognized horsemen's organization
2 representing the horsemen at the racetrack or the state breed
3 registry representing the greyhound breeders at the racetrack may
4 enter into a written agreement to allocate a different percentage
5 of net terminal income to be used for purses at that racetrack.

6 (d) A state breed registry may use a portion, not to exceed
7 10 percent, of the amount allocated for purses under this section
8 for administration as determined reasonable by the commission.

9 (e) The commission shall adopt rules to administer this
10 section. A matter considered by the commission under this section
11 is a contested case under Chapter 2110, Government Code, and
12 requires a public hearing.

13 Sec. 466.595. LIABILITY OF VIDEO LOTTERY RETAILER AND VIDEO
14 LOTTERY MANAGER. (a) A video lottery retailer, video lottery
15 manager, or both, are jointly and severally liable to the
16 commission for the state's share of net terminal income reported by
17 the video lottery central system.

18 (b) Net terminal income received by the video lottery
19 retailer or video lottery manager is held in trust for the benefit
20 of this state before delivery of the state's share to the commission
21 or electronic transfer to the state treasury, and the video lottery
22 retailer or video lottery manager, or both, are jointly and
23 severally liable to the commission for the full amount of the money
24 held in trust.

25 (c) If the video lottery retailer or video lottery manager
26 is not an individual, each officer, director, or owner of the video
27 lottery retailer or video lottery manager is personally liable to

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

5 Sec. 466.596. PRIZE PAYMENT AND REDEMPTION. (a) Payment of
6 prizes is the sole and exclusive responsibility of the video
7 lottery retailer or video lottery manager. A prize may not be paid
8 by the commission or this state except as otherwise authorized.

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

12 (c) A video lottery ticket must be redeemed not later than
13 the 180th day following the date of issuance. If a claim is not made
14 for prize money on or before the 180th day after the date on which
15 the video lottery ticket was issued, the prize money becomes the
16 property of the video lottery terminal establishment.

17 (d) The commission shall enact rules consistent with this
18 section governing the use and redemption of prizes and credits
19 recorded on electronic player account records, such as players'
20 club cards and smart cards.

21 Sec. 466.597. REVOCATION OF LICENSE, REGISTRATION, OR OTHER
22 REGULATORY APPROVAL. (a) The commission shall revoke or suspend a
23 license, registration, or other regulatory approval issued under
24 this subchapter if the holder of the license, registration, or
25 approval at any time fails to meet the eligibility requirements set
26 forth in this subchapter.

27 (b) Failure to timely remit revenue generated by video

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

8 Sec. 466.598. HEARING FOR REVOCATION OR SUSPENSION OF
9 REGISTRATION OR LICENSE. (a) Before the commission revokes or
10 suspends a video lottery terminal provider's registration or video
11 lottery retailer's or video lottery manager's license, or imposes
12 monetary penalties for a violation of this subchapter, the
13 commission shall provide written notification to the license or
14 registration holder of the revocation, the period of suspension, or
15 the monetary penalty. The notice shall include:

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

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

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

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

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

1 (b) The notice required under Subsection (a) must be made by
2 personal delivery or by mail to the person's mailing address as it
3 appears on the commission's records.

4 (c) To obtain an administrative hearing on a suspension,
5 revocation, or penalty under this section, a person must submit a
6 written request for a hearing to the commission not later than the
7 20th day after the date notice is delivered personally or is mailed.

8 (d) If the commission receives a timely request under
9 Subsection (c), the commission shall provide the person with an
10 opportunity for a hearing as soon as practicable. If the commission
11 does not receive a timely request under Subsection (c), the
12 commission may impose the penalty, revoke or suspend a license or
13 registration, or sustain the revocation or suspension without a
14 hearing.

15 (e) Except as provided by Subsection (g), the hearing must
16 be held not earlier than the 11th day after the date the written
17 request is submitted to the commission.

18 (f) The commission may provide that a revocation or
19 suspension takes effect on receipt of notice under Subsection (a)
20 if the commission finds that the action is necessary to prevent or
21 remedy a threat to public health, safety, or welfare. The
22 commission by rule shall establish a nonexclusive list of
23 violations that present a threat to the public health, safety, or
24 welfare.

25 (g) A hearing on a revocation or suspension that takes
26 effect on receipt of notice must be held not later than the 14th day
27 after the date the commission receives the request for hearing

1 under this section. The revocation or suspension continues in
2 effect until the hearing is completed. If the hearing is continued,
3 the revocation or suspension shall continue in effect beyond the
4 14-day period at the request of the license or registration holder
5 or on a finding of good cause by the commission or administrative
6 law judge.

7 (h) To prevail in a post-deprivation administrative hearing
8 under this section, the license or registration holder must
9 demonstrate by clear and convincing evidence that the deprivation
10 or imposition of a penalty was unwarranted or otherwise unlawful.
11 The post-deprivation hearing may be conducted by the commission or
12 referred to the State Office of Administrative Hearings.

13 (i) The administrative record created by the hearing
14 conducted by the State Office of Administrative Hearings shall be
15 provided to the commission for review and determination on the
16 revocation or suspension.

17 (j) If an administrative law judge of the State Office of
18 Administrative Hearings conducts a hearing under this section and
19 the proposal for decision supports the commission's position, the
20 administrative law judge shall include in the proposal a finding of
21 the costs, fees, expenses, and reasonable and necessary attorney's
22 fees this state incurred in bringing the proceeding.

23 (k) The commission may adopt the findings for costs, fees,
24 and expenses and make the finding a part of the final order entered
25 in the proceeding. Proceeds collected from a finding made under
26 this section shall be paid to the commission.

27 Sec. 466.599. JUDICIAL REVIEW OF REVOCATION, SUSPENSION, OR

1 PENALTY IMPOSITION. (a) A person aggrieved by a final decision of
2 the commission to revoke or suspend a registration or license or to
3 impose any monetary penalty may obtain judicial review before a
4 district court in Travis County.

5 (b) The judicial review must be instituted by serving on the
6 commission and filing a petition not later than the 20th day after
7 the effective date of the final decision and must identify the order
8 appealed from and the grounds or reason why the petitioner contends
9 the decision of the commission should be reversed or modified.

10 (c) The review must be conducted by the court sitting
11 without jury, and must not be a trial de novo but is confined to the
12 record on review. The reviewing court may only affirm the decision,
13 remand the case for further proceedings, or reverse the decision if
14 the substantial rights of the petitioner have been violated.

15 Sec. 466.600. LICENSE OR REGISTRATION: AGREEMENT TO WAIVE
16 ENFORCEABILITY. A license or registration holder by virtue of
17 accepting the license or registration agrees that the privilege of
18 holding a license or registration under this subchapter is
19 conditioned on the holder's agreement to Sections 466.597-466.599
20 and waives any right to challenge or otherwise appeal the
21 enforceability of those sections.

22 Sec. 466.601. LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO
23 LIABILITY OF STATE FOR ENFORCEMENT. (a) This state does not waive
24 its sovereign immunity by negotiating gaming agreements with Indian
25 tribes or other persons for the operation of video lottery
26 terminals or other lottery games under this chapter. An actor or
27 agent on behalf of this state does not have any authority to waive

1 the state's sovereign immunity absent an express legislative grant
2 of the authority. The only waiver of sovereign immunity relative to
3 video lottery terminal operations is that expressly provided for in
4 this section.

5 (b) With regard to video lottery terminal operations on
6 Indian lands, this state consents to the jurisdiction of the
7 District Court of the United States with jurisdiction in the county
8 where the Indian lands are located, or if the federal court lacks
9 jurisdiction, to the jurisdiction of a district court in Travis
10 County, solely for the purpose of resolving disputes arising from a
11 gaming agreement authorized under this subchapter for declaratory
12 or injunctive relief or contract damages of \$100,000 or more. Any
13 disputes relating to damages or other awards valued at less than
14 \$100,000 shall be arbitrated under the rules of the American
15 Arbitration Association, provided, however, that application of
16 the rules may not be construed as a waiver of sovereign immunity.

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

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

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

25 Sec. 466.602. ABSOLUTE PRIVILEGE OF REQUIRED
26 COMMUNICATIONS AND DOCUMENTS. (a) Any communication, document, or
27 record of a video lottery central system provider, video lottery

1 terminal provider, video lottery retailer, or video lottery
2 manager, an applicant, or a license or registration holder or
3 holder of a regulatory approval that is made or transmitted to the
4 commission or any of its employees to comply with any law, including
5 a rule of the commission, to comply with a subpoena issued by the
6 commission, or to assist the commission or its designee in the
7 performance of their respective duties is absolutely privileged,
8 does not impose liability for defamation, and is not a ground for
9 recovery in any civil action.

10 (b) If a communication, document, or record provided under
11 Subsection (a) contains any information that is privileged under
12 state law, that privilege is not waived or lost because the
13 communication, document, or record is disclosed to the commission
14 or any of the commission's employees.

15 (c) The commission shall maintain all privileged
16 information, communications, documents, and records in a secure
17 place as determined in the commission's sole discretion that is
18 accessible only to members of the commission and authorized
19 commission employees.

20 Sec. 466.603. INTELLECTUAL PROPERTY RIGHTS OF COMMISSION.
21 The legislature finds and declares that the commission has the
22 right to establish ownership of intellectual property rights for
23 all lottery products, including video lottery terminals and related
24 video lottery equipment.

25 Sec. 466.604. MODEL GAMING AGREEMENT. (a) The governor
26 shall execute, at the governor's discretion as chief executive
27 officer of this state and on behalf of this state, a gaming

1 agreement with the Ysleta del Sur Pueblo Indian tribe, the
2 Alabama-Coushatta Indian tribe, or the Kickapoo Traditional Tribe
3 of Texas containing the terms set forth in Subsection (b), as a
4 ministerial act, without preconditions, not later than the 30th day
5 after the date the governor receives a request from the tribe,
6 accompanied by or in the form of a duly enacted resolution of the
7 tribe's governing body, to enter into the gaming agreement.

8 (b) A gaming agreement executed under Subsection (a) must
9 contain substantially the terms set forth in a model gaming
10 agreement adopted by the attorney general and filed with the
11 secretary of state. The attorney general shall adopt a model gaming
12 agreement for purposes of this section, consistent with the
13 applicable provisions of this chapter, and shall file the agreement
14 with the secretary of state.

15 (c) An Indian tribe may operate video lottery games and
16 video lottery terminals in accordance with a gaming agreement
17 entered into under this section.

18 (d) The governor may not amend, alter, or otherwise modify
19 an agreement under this section until after the 10th anniversary of
20 the date the governor signed the original agreement.

21 Sec. 466.605. VIDEO LOTTERY GAMES BY INDIAN TRIBES
22 AUTHORIZED. (a) Notwithstanding any other law, an Indian tribe
23 may operate video lottery games and video lottery terminals as
24 authorized by this subchapter pursuant to a compact with the
25 governor.

26 (b) To operate video lottery games under this section, an
27 Indian tribe must be an Indian tribe as listed by the United States

1 secretary of the interior under 25 U.S.C. Section 479a-1 on or
2 before January 1, 1998, and must, on or before January 1, 1998, have
3 had Indian lands within the boundaries of this state. At any time
4 there may not be more than three Indian tribes operating video
5 lottery games on Indian lands in this state.

6 (c) An Indian tribe may operate video lottery games under
7 this section only on or immediately adjacent to Indian lands placed
8 into trust by the United States for the benefit of the Indian tribe
9 on or before January 1, 1998, that were held and occupied by the
10 Indian tribe on or before January 1, 1998.

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

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

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

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

24 (e) An agreement entered into under this section with a
25 federally recognized Indian tribe, or an affiliated entity, to
26 allow the tribe or entity to operate video lottery games must
27 provide that the tribe agrees to collect and remit to the

1 comptroller all state sales and use taxes for all taxable goods and
2 services sold on the tribe's Indian lands in this state and all
3 state taxes on motor fuels, alcoholic beverages, cigarettes and
4 tobacco products, and hotel occupancy sold on the tribe's Indian
5 lands. In the case of a federally recognized Indian tribe, the
6 requirement to collect and remit these state taxes does not apply to
7 taxes on the sale, use, or consumption of an item by a member of the
8 tribe. The agreement shall provide a method to secure payment of
9 these taxes to this state.

10 (f) The comptroller may adopt rules to ensure that the
11 exemption from the collection and remission of state taxes under
12 Subsection (e) applies only to members of the tribe owning that
13 tribal land.

14 SECTION 34. Section 467.001, Government Code, is amended by
15 amending Subdivision (9) and adding Subdivision (12) to read as
16 follows:

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

19 (A) a person or a board member, officer, trustee,
20 or general partner of a person that manufactures, distributes,
21 sells, or produces lottery equipment, video lottery equipment,
22 video lottery games, video lottery central systems, supplies,
23 services, or advertising;

24 (B) an employee of a video lottery terminal
25 provider, video lottery central system provider, or person that
26 manufactures, distributes, sells, or produces lottery equipment,
27 supplies, services, or advertising or video lottery equipment or

1 games and that employee is directly involved in the manufacturing,
2 distribution, selling, or production of lottery equipment,
3 supplies, services, or advertising or video lottery equipment or
4 games;

5 (C) a person or a board member, officer, trustee,
6 or general partner of a person that has made a bid to operate the
7 lottery in the preceding two years or that intends to make a bid to
8 operate the lottery or an employee of the person if the employee is
9 directly involved in making the bid; or

10 (D) a sales agent, video lottery retailer, video
11 lottery manager, video lottery terminal provider, or video lottery
12 central system provider.

13 (12) "Video lottery central system," "video lottery
14 equipment," "video lottery game," "video lottery manager," "video
15 lottery retailer," and "video lottery terminal provider" have the
16 meanings assigned by Section 466.002.

17 SECTION 35. Section 467.027(a), Government Code, is amended
18 to read as follows:

19 (a) A commission member is [~~not~~] entitled to compensation
20 for serving on the commission. The annual salary of the commission
21 members is set by legislative appropriation.

22 SECTION 36. Section 467.031, Government Code, is amended to
23 read as follows:

24 Sec. 467.031. DIVISIONS. The commission shall establish
25 separate divisions to oversee bingo and the state lottery. The
26 commission may create a division to oversee video lottery and
27 delegate responsibilities in the administration of Chapter 466 to

1 the executive director, the director of the appropriate division,
2 and the division's staff; provided, however, that the commission
3 may not delegate the following actions:

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

6 (2) a final determination in any proceeding involving
7 the suspension or revocation of a registration or license under
8 Chapter 466;

9 (3) a final determination that Chapter 466 has been
10 violated; or

11 (4) a final determination or imposition of an
12 assessment of fines or penalties under a law administered by the
13 commission.

14 SECTION 37. Section 467.035(a), Government Code, is amended
15 to read as follows:

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

18 (1) a bingo commercial lessor, bingo distributor, or
19 bingo manufacturer; or

20 (2) a lottery sales agency, ~~or~~ a lottery operator, a
21 video lottery retailer, a video lottery manager, a video lottery
22 terminal provider, a video lottery central system provider, or a
23 manufacturer of video lottery games.

24 SECTION 38. Section 467.108, Government Code, is amended to
25 read as follows:

26 Sec. 467.108. REPRESENTATION BY FORMER OFFICER OR
27 EMPLOYEE. (a) A former commission member, former executive

1 director, or former director may not:

2 (1) [~~for compensation,~~] represent a person, either
3 with or without compensation, [~~that has made or intends to make a~~
4 ~~bid to operate the lottery]~~ before the commission before the fifth
5 [~~second~~] anniversary of the date that the person's service in
6 office or employment with the commission ceases;

7 (2) represent any person or receive compensation for
8 services rendered on behalf of any person regarding a particular
9 matter in which the former officer or employee participated during
10 the period of service or employment with the commission, either
11 through personal involvement or because the matter was within the
12 scope of the officer's or employee's official responsibility; or

13 (3) [~~for compensation]~~ communicate on behalf of any
14 person, whether compensated or not compensated, directly with a
15 member of the legislative branch to influence legislation on behalf
16 of a person that has any [~~a significant financial~~] interest in the
17 lottery, before the fifth [~~second~~] anniversary of the date that the
18 person's service in office or employment with the commission
19 ceases.

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

23 SECTION 39. Section 411.108, Government Code, is amended by
24 adding Subsection (d) to read as follows:

25 (d) The Texas Lottery Commission may obtain from the
26 department, subject to an interagency agreement entered into under
27 Section 466.020(d) or 466.206, criminal history record information

1 maintained by the department that relates to any natural person,
2 corporation, association, trust, partnership, limited partnership,
3 joint venture, government, subsidiary, or other entity, regardless
4 of its form, structure, or nature that the commission has the
5 authority to investigate under Chapter 466 as related to the
6 commission's operation and oversight of video lottery. Criminal
7 history record information obtained by the commission under this
8 subsection may be released or disclosed only as provided in
9 Sections 466.022(d) and 466.206.

10 SECTION 40. Section 47.01(4), Penal Code, is amended to
11 read as follows:

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

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

27 (B) does not include any electronic,

1 electromechanical, or mechanical contrivance designed, made, and
2 adapted solely for bona fide amusement purposes if:

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

9 (ii) any merchandise or a representation of
10 value received by a player may be exchanged only at the same
11 business and business location at which the contrivance operated by
12 the player is located and may not be exchanged for a gift
13 certificate or similar conveyance that is redeemable at another
14 business or business location; and

15 (iii) the contrivance or device does not
16 resemble a slot machine or any other casino game.

17 SECTION 41. Section 47.06(e), Penal Code, is amended to
18 read as follows:

19 (e) An offense under this section is a felony of the third
20 degree [~~Class A misdemeanor~~].

21 SECTION 42. Section 47.09, Penal Code, is amended by adding
22 Subsection (c) to read as follows:

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

27 SECTION 43. Chapter 47, Penal Code, is amended by adding

1 Section 47.095 to read as follows:

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

8 SECTION 44. Article 6, Texas Racing Act (Article 179e,
9 Vernon's Texas Civil Statutes), is amended by adding Sections
10 6.20-6.22 to read as follows:

11 Sec. 6.20. LIVE RACING REQUIREMENT. (a) The commission by
12 rule shall require a person who holds a horse racetrack license and
13 operates a video lottery terminal establishment under Subchapter K,
14 Chapter 466, Government Code, and that conducted live racing in
15 2002 to conduct at least the same number of live racing days in each
16 calendar year after 2005 that the racetrack conducted in 2002.

17 (b) The commission by rule shall require a person who holds
18 a greyhound racetrack license and operates a video lottery terminal
19 establishment under Subchapter K, Chapter 466, Government Code, and
20 that conducted live racing in 2004 to conduct not less than 420 live
21 greyhound racing performances in each calendar year after 2005
22 unless otherwise agreed to by the official state breed registry.

23 Sec. 6.21. TRANSFER FEE. The commission may not approve the
24 sale, transfer, assignment, or other conveyance of any interest or
25 control in a pari-mutuel license or the racetrack owned or managed
26 by the license holder if the license holder holds a video lottery
27 retailer license under Subchapter K, Chapter 466, Government Code,

1 until the transfer fee required by Section 466.5321, Government
2 Code, is fully paid to this state.

3 Sec. 6.22. BREED SPLITS AT VIDEO LOTTERY TERMINAL
4 ESTABLISHMENTS. The commission shall adopt rules to require a
5 horse racetrack that holds a video lottery retailer license under
6 Subchapter K, Chapter 466, Government Code, to allocate from the
7 amount set aside for purses under Section 466.593(a) or (c),
8 Government Code, 30 percent to quarter horse purses and 70 percent
9 to thoroughbred purses.

10 SECTION 45. The Legislature finds and declares the
11 following:

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

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

23 (3) The implementation of the video lottery system
24 will require significant time for application investigations and
25 determinations and for video lottery terminal and video lottery
26 central system providers and manufacturers of video lottery games
27 to develop prototypes for testing for the video lottery central

1 system and video lottery terminals and games.

2 (4) The state's budget crisis constitutes an imminent
3 peril to the public welfare, requiring the adoption of rules and
4 authorization for the Texas Lottery Commission to conduct certain
5 limited pre-implementation activities related to the establishment
6 of the video lottery system to promote and ensure the integrity,
7 security, honesty, and fairness of the operation and administration
8 of the video lottery system.

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

17 SECTION 46. (a) As soon as practicable after the
18 constitutional amendment to authorize the state video lottery
19 system proposed by the 79th Legislature, Regular Session, 2005, is
20 approved by the voters and becomes effective, the Texas Lottery
21 Commission shall adopt the rules necessary to implement video
22 lottery in accordance with Subchapter K, Chapter 466, Government
23 Code, as added by this Act.

24 (b) Before the proposed constitutional amendment to
25 legalize the state video lottery system is submitted to the voters,
26 the Texas Lottery Commission may expend money from the commission's
27 appropriation for the 2006-2007 biennium for purposes of conducting

1 pre-implementation activities to establish the state video lottery
2 system in accordance with Subchapter K, Chapter 466, Government
3 Code, as added by this Act. Notwithstanding Section 466.355,
4 Government Code, the money authorized to be expended under this
5 section may be withdrawn from the state lottery account and
6 considered a part of the transfer of funds from the state lottery
7 account authorized under Section 466.589, Government Code, as added
8 by this Act, to fund the establishment of the state video lottery
9 system.

10 (c) Before the proposed constitutional amendment to
11 authorize the state video lottery system is submitted to the
12 voters, the Texas Lottery Commission may develop and approve forms
13 for applications for licensing and registration required under
14 Subchapter K, Chapter 466, Government Code, as added by this Act.

15 (c-1) Not later than July 1, 2005, or as soon after the
16 effective date of this section as practicable and before the
17 proposed constitutional amendment to authorize the state video
18 lottery system is submitted to the voters, the attorney general
19 shall adopt and file a model gaming agreement with the secretary of
20 state as described by Section 466.604, Government Code, as added by
21 this Act.

22 (d) Before the proposed constitutional amendment to
23 authorize the state video lottery system is submitted to the
24 voters, the Texas Lottery Commission may accept pre-implementation
25 applications for video lottery retailers and video lottery managers
26 under Subchapter K, Chapter 466, Government Code, as added by this
27 Act. On receipt of a complete application, completion of all

1 investigations, and submittal of the nonrefundable investigatory
2 fees the commission requires consistent with Subchapter K, Chapter
3 466, Government Code, as added by this Act, the commission may make
4 preliminary findings of suitability for an applicant and location
5 of a video lottery terminal establishment. If the commission
6 determines that all the requirements under Subchapter K, Chapter
7 466, Government Code, have been satisfied, the commission may issue
8 a letter advising the applicant of the status of approval of the
9 application pending approval by the voters of the proposed
10 constitutional amendment to authorize the state video lottery
11 system. If the commission determines that any requirements under
12 Subchapter K, Chapter 466, Government Code, have not been
13 satisfied, the commission may request additional information or
14 conduct further investigations the commission considers necessary
15 and may issue a letter advising the applicant of the status of the
16 application.

17 (e) Before the proposed constitutional amendment to
18 authorize the state video lottery system is submitted to the
19 voters, the Texas Lottery Commission may request and receive
20 information related to applications for licensing and registration
21 under Subchapter K, Chapter 466, Government Code, as added by this
22 Act. An applicant's failure to comply with any requests made by the
23 Texas Lottery Commission under this subsection may be considered
24 grounds for denial of an application.

25 (f) The Texas Lottery Commission may not issue any license,
26 registration, or temporary license related to the state video
27 lottery system under Subchapter K, Chapter 466, Government Code, as

1 added by this Act, unless and until the constitutional amendment
2 authorizing the state video lottery system is approved by the
3 voters and becomes effective.

4 (g) Before the proposed constitutional amendment to
5 authorize the state video lottery system is submitted to the
6 voters, the Texas Lottery Commission may conduct investigations and
7 collect investigative fees related to information requested and
8 received for pre-implementation applications under this section
9 and necessary for the commission's evaluation and determination of
10 an application for any licensing, registration, or commission
11 approval required under Subchapter K, Chapter 466, Government Code,
12 as added by this Act.

13 (h) Before the proposed constitutional amendment to
14 authorize the state video lottery system is submitted to the
15 voters, the Texas Lottery Commission may conduct preregistration of
16 potential video lottery terminal providers. To qualify for
17 preregistration under this subsection, an applicant must satisfy
18 the minimum application requirements under Section 466.512,
19 Government Code, as added by this Act, except that the application
20 fee required under Section 466.513(a), Government Code, as added by
21 this Act, is not due until the applicant files an application for
22 registration under Subchapter K, Chapter 466, Government Code, as
23 added by this Act. A preregistration application must be
24 accompanied by a nonrefundable deposit to the Texas Lottery
25 Commission in the amount of \$25,000. A preregistration applicant
26 shall submit additional money not later than the 10th day after the
27 date the applicant receives notice from the commission that it has

1 incurred actual costs for the preregistration investigation in
2 excess of the initial deposit required under this subsection. If
3 the commission does not receive the additional money from the
4 applicant on or before the 15th day after the date the applicant
5 receives the commission's notice, the commission shall suspend the
6 application until the money is received by the commission. Any
7 deposit or other nonrefundable money provided under this subsection
8 shall be credited toward an application fee required under Section
9 466.513(a), Government Code, as added by this Act.

10 (i) The Texas Lottery Commission may not register any video
11 lottery terminal providers unless and until the constitutional
12 amendment authorizing the state video lottery system is approved by
13 the voters and becomes effective.

14 (j) Notwithstanding Section 466.513, Government Code, as
15 added by this Act, a video lottery terminal provider that has been
16 preregistered by the Texas Lottery Commission in accordance with
17 this section, a video lottery central system provider, or a
18 manufacturer of video lottery games, under a contract with the
19 commission, may manufacture and test prototypes of or existing
20 video lottery equipment for a video lottery central system, video
21 lottery terminals, and video lottery games for the commission's
22 consideration.

23 (k) Before the proposed constitutional amendment to
24 authorize the state video lottery system is submitted to the
25 voters, the Texas Lottery Commission may negotiate contracts with
26 preregistered video lottery terminal providers. The commission may
27 enter into contracts with preregistered video lottery terminal

1 providers, video lottery central system providers, and
2 manufacturers of video lottery games as required for the creation
3 and testing of a video lottery central system, video lottery
4 terminals, and video lottery games for the commission's
5 consideration.

6 (l) Before the proposed constitutional amendment to
7 authorize the state video lottery system is submitted to the
8 voters, the Texas Lottery Commission may negotiate and enter
9 contracts as necessary to establish the video lottery system. The
10 commission is exempt from the procurement procedures prescribed
11 under Subtitle D, Title 10, Government Code; Section 466.101,
12 Government Code; Chapter 2161, Government Code; and any and all
13 bidding requirements or contract requirements provided by any other
14 law or by rules of the commission for the acquisition or provision
15 of facilities, supplies, equipment, materials, or services related
16 to the implementation of video lottery under this section.

17 (m) Before the proposed constitutional amendment to
18 authorize the state video lottery system is submitted to the
19 voters, the Texas Lottery Commission may employ additional
20 full-time equivalent employees to administer this Act and establish
21 the video lottery system.

22 SECTION 47. The change in law made by this Act applies only
23 to an offense committed on or after the effective date of this Act.
24 An offense committed before the effective date of this Act is
25 covered by the law in effect when the offense was committed, and the
26 former law is continued in effect for that purpose. For purposes of
27 this section, an offense was committed before the effective date of

1 this Act if any element of the offense was committed before that
2 date.

3 SECTION 48. Sections 1 through 44 and 47 of this Act take
4 effect on the date the amendment to Section 47, Article III, Texas
5 Constitution, authorizing a state video lottery system proposed by
6 the 79th Legislature, Regular Session, 2005, becomes effective.
7 Sections 45 and 46 of this Act and this section take effect
8 immediately if this Act receives a vote of two-thirds of all the
9 members elected to each house, as provided by Section 39, Article
10 III, Texas Constitution. If this Act does not receive the vote
11 necessary for immediate effect, Sections 45 and 46 of this Act and
12 this section take effect on the 91st day after the last day of the
13 legislative session. Sections 45 and 46(m) of this Act expire March
14 1, 2006.