

SIXTY-SEVENTH DAY

WEDNESDAY, MAY 11, 2005

PROCEEDINGS

The Senate met at 1:50 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

Senator Estes offered the invocation as follows:

Father in heaven, we come to You on this new day, thanking You for the rest and relaxation that a new day brings. We pray that You would give us, Lord, grace to continue to work for all the good of all the people of Texas. Thank You for this body, Lord, thank You for every Member here, and we just pray that our deliberations as we go to sine die would honor and glorify You. In Your holy name. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CONCLUSION OF MORNING CALL

The President at 1:52 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE HOUSE BILL 3 ON THIRD READING

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSHB 3** at this time on its third reading and final passage:

CSHB 3, Relating to financing public schools in this state and reducing school property taxes.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Shapiro, Staples, Wentworth, Whitmire, Zaffirini.

Nays: Barrientos, Ellis, Eltife, Gallegos, Nelson, Seliger, Shapleigh, Van de Putte, West, Williams.

The bill was read third time.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSHB 3** (Senate committee printing) on third reading as follows:

Add the following SECTIONS, appropriately numbered, to read as follows:

SECTION 2.01. Section 466.002, Government Code, is amended by amending Subdivisions (2)-(10) and adding Subdivisions (11)-(36) to read as follows:

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

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

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

(5) "Distribute," with respect to a video lottery terminal, an electronic computer component of a video lottery terminal, the cabinet in which a video lottery terminal is housed, video lottery equipment, or video lottery game software intended for use or play in this state, including on Indian lands in this state, means the sale, lease, marketing, offer, or other disposition of any of those items.

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

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

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

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

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

(A) the house plays as a participant;

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

(C) the house has an opportunity to win.

(11) "Indian lands" means:

(A) land located within an Indian reservation and occupied by an Indian tribe on January 1, 1998; and

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

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

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

(12) "Institutional investor" means:

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

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

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

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

(iii) an investment company registered under Section 8, Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);

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

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

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

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

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

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

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

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

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

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

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

(21) "Racetrack" means a racetrack as defined by Section 1.03(25), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

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

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

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

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

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

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

(i) control the activities of the applicant or license holder; or
(ii) elect or select the executive director, the managers, the partners,
or a majority of the board of directors of the applicant or license holder; and

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

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

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

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

(28) "Video lottery equipment" means:

(A) a video lottery terminal;

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

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

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

(iii) monitor video lottery terminal operations; and

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

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

(29) "Video lottery game" means an electronically simulated game displayed on a video lottery terminal the outcome of which is determined solely by chance based on a computer-generated random selection of winning combinations of symbols or numbers other than roulette, dice, or baccarat game themes associated with casino gambling, except that game themes displaying symbols that appear to roll on drums to simulate a classic casino slot machine or themes of other card games and keno may be used.

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

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

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

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

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

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

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

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

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

SECTION 2.02. Section 466.003, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

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

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

SECTION 2.03. Section 466.004(a), Government Code, is amended to read as follows:

(a) A political subdivision of this state may not impose:

(1) a tax on the sale of a ticket;

(2) a tax on the payment of a prize under this chapter; ~~or~~

(3) an ad valorem tax on tickets;

(4) a tax, fee, or other assessment on consideration paid to play a video

lottery game; or

(5) a tax or fee for attendance or admission to a video lottery establishment or a racetrack at which a video lottery establishment is located unless specifically authorized by statute.

SECTION 2.04. Section 466.014, Government Code, is amended to read as follows:

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

(b) The executive director may contract with or employ a person to perform a function, activity, or service in connection with the operation of the lottery as prescribed by the executive director. A contract relating to the operation of video lottery must be consistent with Subchapter K. Except as provided by this subsection,

a ~~[A]~~ person with whom the executive director contracts to operate a lottery game must be eligible for a sales agent license under Section 466.155. A person with whom the executive director contracts to provide the video lottery central system must be eligible under the same standards as those applicable to the registration or approval by the commission of a video lottery terminal provider in accordance with Subchapter K.

(c) The executive director may award a contract for lottery supplies, equipment, or services, including a contract under Subsection (b), pending the completion of any investigation and licensing, registration, or other approval authorized or required by this chapter. A contract awarded under this subsection must include a provision permitting the executive director to terminate the contract without penalty if the investigation reveals that the person to whom the contract is awarded would not be eligible for a sales agent license under Section 466.155 or with regard to video lottery does not satisfy the applicable requirements for licensing, registration, or other approval under Subchapter K.

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

(1) procurement procedures prescribed under:

(A) Subtitle D, Title 10; and

(B) Section 466.101; and

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

(f) Subsection (e) and this subsection expire January 1, 2008.

SECTION 2.05. Section 466.015(b), Government Code, is amended to read as follows:

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

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

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

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

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

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

SECTION 2.06. Section 466.017, Government Code, is amended to read as follows:

Sec. 466.017. AUDITS. (a) The commission ~~[executive director]~~ shall provide for a certified public accountant to conduct an independent audit of the commission's annual financial statements in accordance with generally accepted auditing standards that requires the accountant to express an opinion on the conformity of the financial statements with generally accepted accounting principles ~~[for each fiscal year of all accounts and transactions of the lottery]~~. The certified public accountant may not

have~~[, as determined by the executive director,]~~ a significant financial interest in a sales agent, lottery vendor, ~~[or]~~ lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider. The certified public accountant shall present an audit report to the executive director, the commission, the governor, the comptroller, and the legislature not later than the 30th day after the submission date for the annual financial report required by the General Appropriations Act. ~~[The report must contain recommendations to enhance the earnings capability of the lottery and improve the efficiency of lottery operations.]~~ The state auditor may review the results of and working papers related to the audit.

(b) The records of a [Each] lottery operator, sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider [operator's and sales agent's records] are subject to audit by the commission and the state auditor. For the purpose of carrying out this chapter, the executive director or state auditor may examine all books, records, papers, or other objects that the executive director or state auditor determines are necessary for conducting a complete examination under this chapter and may also examine under oath any officer, director, or employee of a lottery operator, ~~[or]~~ sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider. The executive director or state auditor may conduct an examination at the principal office or any other office of the person subject to the audit [lottery operator or sales agent] or may require the person [lottery operator or sales agent] to produce the records at the office of the commission or state auditor. If a sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider refuses to permit an examination or to answer any question authorized by this subsection, the executive director may summarily suspend the license or registration of the sales agent, video lottery manager, video lottery retailer, or video lottery terminal provider under Section 466.160 or Subchapter K until the examination is completed as required. Section 321.013(h) does not apply to an audit of a lottery operator, ~~[or]~~ sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider.

SECTION 2.07. Section 466.018, Government Code, is amended to read as follows:

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

SECTION 2.08. Sections 466.020(c), (d), and (e), Government Code, are amended to read as follows:

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

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

(2) seize a lottery vending machine, lottery computer terminal, video lottery terminal, or other lottery or gaming equipment that is being used or is in the possession of any person in violation of this chapter.

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

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

(1) lottery personnel security;
(2) sales agent security;
(3) lottery operator and vendor security;
(4) security against ticket counterfeiting and alteration and other means of fraudulent winning;

(5) security of lottery drawings;
(6) lottery computer, data communications, database, and systems security;
(7) lottery premises and warehouse security;
(8) security of distribution of tickets;
(9) security of validation and payment procedures;
(10) security involving unclaimed prizes;
(11) security aspects of each lottery game;
(12) security against the deliberate placement of winning tickets in lottery games that involve preprinted winning tickets by persons involved in the production, storage, transportation, or distribution of tickets; ~~[and]~~

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

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

SECTION 2.09. Section 466.021(a), Government Code, is amended to read as follows:

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

SECTION 2.10. Section 466.022, Government Code, is amended by amending Subsection (b) and adding Subsections (c), (d), (e), and (f) to read as follows:

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

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

(2) information of a nature that is designed to ensure the integrity and security of the selection of winning tickets or numbers in the lottery, other than information describing the general procedures for selecting winning tickets or numbers; ~~and~~

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

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

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

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

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

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

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

(5) are prepared or obtained by an agent or employee of the commission relating to a license, registration, or renewal application, a finding of suitability, or any approval required under Subchapter K.

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

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

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

SECTION 2.11. Section 466.024, Government Code, is amended to read as follows:

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

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

(c) In this section, "sports[+]

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

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

SECTION 2.12. Section 466.025, Government Code, is amended to read as follows:

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

SECTION 2.13. Section 466.103(a), Government Code, is amended to read as follows:

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

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

(2) with regard to video lottery equipment:

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

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

SECTION 2.14. Section 466.110, Government Code, is amended to read as follows:

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

SECTION 2.15. Section 466.151(b), Government Code, is amended to read as follows:

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

SECTION 2.16. Section 466.158(a), Government Code, is amended to read as follows:

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

SECTION 2.17. Section 466.201(a), Government Code, is amended to read as follows:

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

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

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

(3) a lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider, or prospective lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider;

(4) an employee of a lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider or prospective lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider, if the employee is or will be directly involved in lottery operations;

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) selling tickets; or

(ii) handling money from the sale of tickets.

SECTION 2.18. Subchapter E, Chapter 466, Government Code, is amended by adding Section 466.206 to read as follows:

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

(b) The Department of Public Safety or a state or local law enforcement agency in this state, in accordance with an interagency agreement with the commission, shall provide any assistance requested by the commission in the administration and enforcement of this chapter, including conducting background investigations of a person seeking a license, registration, or other commission authorization required under Subchapter K or of any person required to be named in an application for a license, registration, or other commission authorization under that subchapter.

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

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

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

(2) under a court order.

SECTION 2.19. Section 466.252, Government Code, is amended to read as follows:

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

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

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

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

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

SECTION 2.20. Section 466.3011, Government Code, is amended to read as follows:

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

- (1) an offense under this chapter;
- (2) an offense under the Penal Code, if the accused:

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

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

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

SECTION 2.21. Subchapter G, Chapter 466, Government Code, is amended by adding Section 466.3031 to read as follows:

Sec. 466.3031. UNAUTHORIZED OPERATION, USE, OR POSSESSION OF VIDEO LOTTERY TERMINAL. (a) A person may not operate, use, or possess a video lottery terminal unless the operation, use, or possession is expressly authorized by this chapter or other law.

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

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

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

SECTION 2.22. Section 466.305(a), Government Code, is amended to read as follows:

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

SECTION 2.23. The heading to Section 466.3051, Government Code, is amended to read as follows:

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

SECTION 2.24. Section 466.3051, Government Code, is amended by adding Subsections (a-1) and (b-1) and amending Subsections (b)-(f) to read as follows:

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

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

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

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

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

(c) A person 18 years of age or older may purchase a lottery ticket to give as a gift to another person, including an individual younger than 18 years of age.

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

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

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

SECTION 2.25. Section 466.3053, Government Code, is amended to read as follows:

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

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

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

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

SECTION 2.26. Section 466.306, Government Code, is amended to read as follows:

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

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

SECTION 2.27. Section 466.309(a), Government Code, is amended to read as follows:

(a) A person commits an offense if the person intentionally or knowingly tampers with, damages, defaces, or renders inoperable any vending machine, electronic computer terminal, video lottery terminal or other video lottery equipment, or other mechanical device used in a lottery game.

SECTION 2.28. The heading to Section 466.317, Government Code, is amended to read as follows:

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

SECTION 2.29. Section 466.317, Government Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

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

(b) The state may enter into a compact with another state or state government [~~or an Indian tribe or tribal government~~] to permit the sale of lottery tickets of this state in the state's[~~tribe's,~~] or government's jurisdiction and to allow the sale of the state's[~~tribe's,~~] or government's lottery tickets in this state.

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

SECTION 2.30. Section 466.355(a), Government Code, is amended to read as follows:

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

SECTION 2.31. Subchapter H, Chapter 466, Government Code, is amended by adding Section 466.360 to read as follows:

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

SECTION 2.32. Section 466.402, Government Code, is amended by adding Subsection (e) to read as follows:

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

SECTION 2.33. Chapter 466, Government Code, is amended by 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(), 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 operation of all video lottery terminals ensures the integrity of the system and provides for the most efficient oversight and supervision. Costs incurred for oversight and supervision of gambling will be significantly less than if video lottery terminals were not operated as part of the video lottery system. In addition, providing for the state-controlled system will defend against criminal infiltration of gambling operations.

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

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

(7) The authorization for state-controlled video lottery terminals to fund governmental programs is consistent with this state's public policy prohibiting gambling provided the gambling is not, in any way, expanded beyond that directly controlled by this state. Expanded gambling beyond this limited form of state-controlled gambling would compromise the public safety, law, and long-standing

policy against gambling in this state. In addition, such expanded gambling could impose prohibitive cost on this state's regulatory system and, therefore, defeat the effort to raise revenue for state governmental programs through authorized video lottery terminals. For these reasons, any interpretation that allows for casino gaming of the type operating in Nevada and New Jersey in 2005 to be conducted in this state at racetracks or on Indian lands as a result of the authorization of video lottery terminals would have severe adverse consequences on this state's efforts to raise revenue to fund governmental programs through the operation of video lottery terminals and would violate the public policy against gambling in such a way that would clearly outweigh any potential positive economic consequences.

(8) In authorizing only a state-controlled and state-operated video lottery system and state-controlled video lottery terminals in limited locations and continuing the general prohibition on gambling in this state as a matter of public policy, this state is protecting the state's legitimate interests by restricting such vice activity. By limiting the operation of video lottery terminals to those connected to the state-controlled video lottery system and to certain lands and certain types of games, the legislature seeks to foster this state's legitimate sovereign interest in regulating the growth of gambling activities in this state. Historically, this state has banned commercial gambling altogether and, therefore, it is in this state's best interest to limit the placement of commercial gambling operations to certain locations. Limiting video lottery terminals to those controlled by this state and located on racetracks where regulated gambling occurs is reasonably designed to defend against the criminal infiltration of gambling operations and adverse impacts on communities statewide. By restricting gambling such as video lottery terminals to carefully limited locations and video lottery terminals controlled by this state that may be disabled by this state if necessary to protect the public, this state furthers the state's purpose of ensuring that such gambling activities are free from criminal and undesirable elements.

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

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

(11) The voters have conferred a substantial economic benefit on federally recognized Indian tribes by allowing operation of video lottery terminals on lands held in trust by the Ysleta del Sur Pueblo and Alabama-Coushatta Indian tribes at the time of the ratification and approval of Section 47(f), Article III, Texas Constitution,

and on Indian lands of the Kickapoo Traditional Tribe of Texas on which gaming is allowed under applicable federal law. These tribes have the exclusive right to operate video lottery terminals at locations on the Indian lands in this state without incurring the investment necessary to construct, maintain, and operate racetracks for live racing, and through revenue-sharing both the policy of self-governance for the tribes and this state's interests in generating additional revenue to fund governmental programs can be promoted.

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

(A) preclude the creation of any property right in any license, registration, or approval issued or granted by this state under this chapter, the accrual of any value to the privilege of participation in any video lottery game operation, or the transfer of a license or permit; and

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

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

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

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

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

Sec. 466.505. AUTHORITY TO OPERATE VIDEO LOTTERY SYSTEM. (a) The commission may implement and operate a video lottery system and regulate the operation of video lottery terminals at racetracks in accordance with this chapter and the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes). This chapter supersedes any conflicting or inconsistent provision of the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) or other state law.

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

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

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

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

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

(1) ownership of the software; or

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

Sec. 466.507. STATE CONTROL OF VIDEO LOTTERY SYSTEM. (a) In accordance with Section 47(e), Article III, Texas Constitution, the commission shall control and regulate the video lottery system and the video lottery central system through which this state has the exclusive and unilateral ability to monitor activity of video lottery terminals and remotely disable video lottery terminals for the public safety, health, and welfare or the preservation of the integrity of the lottery and to prevent any financial loss to this state.

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

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

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

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

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

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

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

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

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

(c) To be eligible for registration or commission approval as required by this section, an applicant must satisfy all applicable requirements under this subchapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 466.520. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER LICENSE REQUIRED. Except as provided by a gaming agreement, a person may not own or operate a video lottery terminal if the person does not satisfy the requirements of this subchapter and is not licensed by the commission to act as a video lottery retailer or video lottery manager.

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

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

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

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

(b) Each officer, partner, director, key employee, substantial interest-holder, video lottery game operation employee, and owner of video lottery game operations must be eligible and maintain eligibility in accordance with this subchapter to be involved in video lottery games in this state.

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

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

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

(3) if applying for a new license, provide fingerprints for a criminal records evaluation by the Texas Department of Public Safety or other law enforcement agency, including fingerprints for each person required to be named in an application,

accompanied by a signed authorization for the release of information to the commission by the department of public safety and the Federal Bureau of Investigation;

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

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

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

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

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

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

(10) as part of its application, expressly waive any and all claims against the commission, this state, and a member, officer, employee, or authorized agent of the commission or this state for damages resulting from any background investigation, disclosure, or publication relating to an application for a video lottery retailer or video lottery manager license.

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

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

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

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

Sec. 466.522. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER: APPLICATION FEE. (a) An applicant for a video lottery retailer or video lottery manager license shall submit a nonrefundable application processing fee in the amount prescribed by commission rule that is sufficient and reasonable to pay the costs of determining the applicant's eligibility, not to exceed \$50,000.

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

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

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

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

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

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

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

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

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

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

Sec. 466.528. RULES FOR ADDITIONAL LICENSE QUALIFICATIONS. The commission by rule may establish other license qualifications the commission determines are in the public interest and consistent with the declared policy of this state.

Sec. 466.529. APPLICATION AS REQUEST FOR CHARACTER DETERMINATION. An application under this subchapter to receive or renew a license, registration, or approval or to be found suitable constitutes a request for a determination of the applicant's general character, integrity, and ability to participate or engage in or be associated with the operation of video lottery terminals.

Sec. 466.530. IMMUNITY FOR STATEMENT MADE IN PROCEEDING OR INVESTIGATION. Any written or oral statement made in the course of an official commission proceeding or investigative activities related to an application for commission licensing, registration, or other approval under this subchapter, by any member or agent or any witness testifying under oath that is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

Sec. 466.531. SUITABILITY FINDING. To promote the integrity and security of the lottery, the commission in its discretion may require a suitability finding for any person doing business with or in relation to the operation of video lottery terminals who is not otherwise required to obtain a license, registration, or approval from the commission for the person's video lottery-related operations.

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

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

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

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

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

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

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

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

(2) the commission discovers the license holder failed to deposit money received from video lottery terminal operation as required if the license is being summarily suspended under this section; or

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

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

(B) prevent financial loss to this state.

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

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

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

(c) A sale, transfer, assignment, or conveyance of interest or control to which Subsection (b) applies may not be approved by the commission until this state receives the transfer fee.

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

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

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

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

(d) A license, registration, suitability, or regulatory approval granted or renewed under this subchapter may not be transferred or assigned to another person, and a license, registration, suitability, or approval may not be pledged as collateral. The purchaser or successor of a person who has been granted a license, registration, suitability, or regulatory approval must independently qualify for a license, registration, suitability, or approval required by this subchapter.

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

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

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

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

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

Sec. 466.537. VIDEO LOTTERY TERMINAL: DISTRIBUTION AND COMMISSION APPROVAL. (a) A video lottery terminal provider may not distribute a video lottery terminal or other video lottery equipment for placement at a video lottery terminal establishment in this state unless the video lottery terminal has been approved by the commission.

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

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

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

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

Sec. 466.539. VIDEO LOTTERY TERMINAL: INSTALLATION; MODIFICATION REQUEST. (a) A video lottery terminal provider is responsible for the assembly and installation of all video lottery terminals and other video lottery equipment.

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

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

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

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

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

(c) The commission may suspend or revoke the license of a video lottery retailer or video lottery manager or the registration of a video lottery terminal provider for the distribution, possession, or operation of an unauthorized video lottery terminal.

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

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

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

(1) the terminal must:

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

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

(C) allow the player at any time to clear all game play credits and receive a video lottery ticket entitling the player to receive the cash value of those credits;

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 466.545. TRAVEL AND INVESTIGATION COSTS. The commission shall pay the travel and investigative expenses incurred under this chapter from money appropriated to the commission.

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

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

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

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

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

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

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

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

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

(e) A waiver granted under Subsection (b) is effective only as long as the institutional investor's direct or indirect beneficial ownership interest in the voting securities meets the limitations set forth in this section, and if the institutional investor's interest exceeds the limitation at any time, the investor is subject to the suitability findings required under this subchapter.

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

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

(2) on the conditions that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) a list of all securities of the publicly traded corporation registered with or licensed by the commission that are or were beneficially owned by the institutional investor or its affiliates in the preceding year, including a description of the securities, the amount of the securities, and the date of acquisition or sale of the securities;

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

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

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

(12) a copy of any filing made under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) with respect to the acquisition or proposed acquisition of voting securities of the publicly traded corporation registered with or licensed by the commission; and

(13) any additional information the commission may request.

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

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

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

Sec. 466.551. EFFECT OF DENIAL OF LICENSE OR REGISTRATION. (a) A person whose application for a license or registration has been denied may not have any interest in or association with a video lottery retailer or video lottery manager or any other business conducted in connection with video lottery without prior approval of the commission.

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

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

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

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

(2) comply with state alcoholic beverage control laws;

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

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

(5) install, post, and display prominently any material required by the commission;

(6) prohibit illegal gambling and any related paraphernalia;

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

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

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

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

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

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

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

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

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

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

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

Sec. 466.558. RESPONSIBILITY FOR VIDEO LOTTERY GAME OPERATIONS. (a) A video lottery retailer or a video lottery manager, if applicable, is responsible for the management of video lottery game operations, including:

(1) the validation and payment of prizes; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A video lottery retailer or video lottery manager shall assign each material incident, without regard to materiality, a sequential number and, at a minimum, provide the following information in a permanent record prepared in accordance with commission rules to ensure the integrity of the record:

(1) the number assigned to the incident;

(2) the date and time of the incident;

(3) the nature of the incident;

(4) each person involved in the incident; and

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

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

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

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

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

(e) All video lottery game employees shall receive training in identifying players with a compulsive playing problem. Signs and other materials shall be readily available to direct compulsive players to agencies that offer appropriate counseling.

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) accepted employment in a position for which commission approval is required after commission approval was denied for a reason involving personal unsuitability or after failing to apply for a license or approval on commission request;

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

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

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

(e) The commission may prohibit an employee from performing any act relating to video lottery terminals based on a revocation or suspension of any gaming or wagering license, permit, or approval or for any other reason the commission finds

appropriate, including a refusal by a regulatory authority to issue a license, permit, or other approval for the employee to engage in or be involved with the lottery or with regulated gaming or pari-mutuel wagering in any jurisdiction.

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

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

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

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

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

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

(4) each license holder shall employ at least the minimum number of private security personnel the commission determines is necessary to provide for safe and approved operation of the video lottery terminal establishment and the safety and well-being of the players.

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

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

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

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

Sec. 466.587. INDEMNIFICATION, INSURANCE, AND BONDING REQUIREMENTS. (a) A license or registration holder shall indemnify and hold harmless this state, the commission, and all officers and employees of this state and the commission from any and all claims which may be asserted against a license or registration holder, the commission, this state, and the members, officers, employees, and authorized agents of this state or the commission arising from the license or registration holder's participation in the video lottery system authorized under this subchapter.

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

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

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

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

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

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

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

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

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

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

(a-1) Except as provided by Subsection (b), all revenue received by this state from the operation of the video lottery system shall be distributed solely to reimburse the commission until the \$5 million authorized under this subsection is repaid to the state lottery account. From funds previously appropriated to the commission for the

state fiscal biennium ending August 31, 2007, and notwithstanding Section 466.355(b), the commission is authorized to expend an amount not to exceed \$5 million from the state lottery account during that biennium to establish the video lottery system in accordance with this chapter. From revenue deposited in the state video lottery account during that biennium, the commission is hereby appropriated the amount necessary to reimburse the state lottery account for the total amount of funds expended to establish the video lottery system from the appropriation to the state lottery account, and the commission shall deposit that amount to the state lottery account. This subsection expires January 1, 2009.

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

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

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

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

(b) Net terminal income derived from the operation of video lottery terminals on Indian lands under a gaming agreement authorized under this subchapter shall be distributed as set forth in the gaming agreement, provided that the agreement must provide that this state shall receive no more than 25 percent of the net terminal income.

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

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

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

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

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

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

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

(2) handling money from video lottery terminal operations.

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

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

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

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

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

Sec. 466.592. FINANCIAL INFORMATION REQUIRED. (a) A video lottery retailer or video lottery manager shall furnish to the commission all information and bank authorizations required to facilitate the timely transfer of money to the commission.

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

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

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

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

(c) The pari-mutuel license holder that owns or operates a racetrack at which video lottery games are conducted under this subchapter and the officially recognized horsemen's organization representing the horsemen at the racetrack or the state breed registry representing the greyhound breeders at the racetrack may enter into a written agreement to allocate a different percentage of net terminal income to be used for purses at that racetrack.

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

(e) The commission shall adopt rules to administer this section. A matter considered by the commission under this section is a contested case under Chapter 2001, Government Code, and requires a public hearing.

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

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

(c) If the video lottery retailer or video lottery manager is not an individual, each officer, director, or owner of the video lottery retailer or video lottery manager is personally liable to the commission for the full amount of the money held in trust, except that shareholders of a publicly held corporation shall be liable in an amount not to exceed the value of their equity investment.

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

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

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

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

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

(b) Failure to timely remit revenue generated by video lottery terminals to the commission or any tax or other fee owed to this state as demonstrated by report from the applicable taxing authority or to timely file any report or information required under this subchapter as a condition of any license, registration, or other approval issued under this subchapter may be grounds for suspension or revocation, or both, of a license, registration, or other approval issued under this subchapter.

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

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

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

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

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

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

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

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

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

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

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

(g) A hearing on a revocation or suspension that takes effect on receipt of notice must be held not later than the 14th day after the date the commission receives the request for hearing under this section. The revocation or suspension continues in effect until the hearing is completed. If the hearing is continued, the revocation or suspension shall continue in effect beyond the 14-day period at the request of the license or registration holder or on a finding of good cause by the commission or administrative law judge.

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

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

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

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

Sec. 466.599. JUDICIAL REVIEW OF REVOCATION, SUSPENSION, OR PENALTY IMPOSITION. (a) A person aggrieved by a final decision of the commission to revoke or suspend a registration or license or to impose any monetary penalty may obtain judicial review before a district court in Travis County.

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

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

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

Sec. 466.601. LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO LIABILITY OF STATE FOR ENFORCEMENT. (a) This state does not waive its sovereign immunity by negotiating gaming agreements with Indian tribes or other persons for the operation of video lottery terminals or other lottery games under this chapter. An actor or agent on behalf of this state does not have any authority to waive the state's sovereign immunity absent an express legislative grant of the authority. The only waiver of sovereign immunity relative to video lottery terminal operations is that expressly provided for in this section.

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

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

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

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

Sec. 466.602. ABSOLUTE PRIVILEGE OF REQUIRED COMMUNICATIONS AND DOCUMENTS. (a) Any communication, document, or record of a video lottery central system provider, video lottery terminal provider, video lottery retailer, or video lottery manager, an applicant, or a license or registration holder or holder of a regulatory approval that is made or transmitted to the commission or any of its employees to comply with any law, including a rule of the commission, to comply with a subpoena issued by the commission, or to assist the commission or its designee in the performance of their respective duties is absolutely privileged, does not impose liability for defamation, and is not a ground for recovery in any civil action.

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

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

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

Sec. 466.604. MODEL GAMING AGREEMENT. (a) The governor shall execute, at the governor's discretion as chief executive officer of this state and on behalf of this state, a gaming agreement with the Ysleta del Sur Pueblo Indian tribe, the Alabama-Coushatta Indian tribe, or the Kickapoo Traditional Tribe of Texas containing the terms set forth in Subsection (b), as a ministerial act, without preconditions, not later than the 30th day after the date the governor receives a request from the tribe, accompanied by or in the form of a duly enacted resolution of the tribe's governing body, to enter into the gaming agreement.

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

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

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

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

(b) To operate video lottery games under this section, an Indian tribe must be an Indian tribe as listed by the United States secretary of the interior under 25 U.S.C. Section 479a-1 on or before January 1, 1998, and must, on or before January 1, 1998, have had Indian lands within the boundaries of this state. At any time there may not be more than three Indian tribes operating video lottery games on Indian lands in this state.

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

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

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

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

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

(e) An agreement entered into under this section with a federally recognized Indian tribe, or an affiliated entity, to allow the tribe or entity to operate video lottery games must provide that the tribe agrees to collect and remit to the comptroller all state sales and use taxes for all taxable goods and services sold on the tribe's Indian lands in this state and all state taxes on motor fuels, alcoholic beverages, cigarettes and tobacco products, and hotel occupancy sold on the tribe's Indian lands. In the case of a federally recognized Indian tribe, the requirement to collect and remit these state taxes does not apply to taxes on the sale, use, or consumption of an item by a member of the tribe. The agreement shall provide a method to secure payment of these taxes to this state.

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

SECTION 2.34. Section 467.001, Government Code, is amended by amending Subdivision (9) and adding Subdivision (12) to read as follows:

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

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

(B) an employee of a video lottery terminal provider, video lottery central system provider, or person that manufactures, distributes, sells, or produces lottery equipment, supplies, services, or advertising or video lottery equipment or games and that employee is directly involved in the manufacturing, distribution, selling, or production of lottery equipment, supplies, services, or advertising or video lottery equipment or games;

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

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

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

SECTION 2.35. Section 467.027(a), Government Code, is amended to read as follows:

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

SECTION 2.36. Section 467.031, Government Code, is amended to read as follows:

Sec. 467.031. DIVISIONS. The commission shall establish separate divisions to oversee bingo and the state lottery. The commission may create a division to oversee video lottery and delegate responsibilities in the administration of Chapter 466 to the executive director, the director of the appropriate division, and the division's staff; provided, however, that the commission may not delegate the following actions:

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

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

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

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

SECTION 2.37. Section 467.035(a), Government Code, is amended to read as follows:

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

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

(2) a lottery sales agency, ~~[or]~~ a lottery operator, a video lottery retailer, a video lottery manager, a video lottery terminal provider, a video lottery central system provider, or a manufacturer of video lottery games.

SECTION 2.38. Section 467.108, Government Code, is amended to read as follows:

Sec. 467.108. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE. (a) A former commission member, former executive director, or former director may not:

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

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

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

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

SECTION 2.39. Section 411.108, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The Texas Lottery Commission may obtain from the department, subject to an interagency agreement entered into under Section 466.020(d) or 466.206, criminal history record information maintained by the department that relates to any natural person, corporation, association, trust, partnership, limited partnership, joint venture, government, subsidiary, or other entity, regardless of its form, structure, or nature that the commission has the authority to investigate under Chapter 466 as related to the commission's operation and oversight of video lottery. Criminal history record information obtained by the commission under this subsection may be released or disclosed only as provided in Sections 466.022(d) and 466.206.

SECTION 2.40. Section 47.01(4), Penal Code, is amended to read as follows:

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

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

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

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

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

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

SECTION 2.41. Section 47.06(e), Penal Code, is amended to read as follows:

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

SECTION 2.42. Section 47.09, Penal Code, is amended by adding Subsection (c) to read as follows:

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

SECTION 2.43. Chapter 47, Penal Code, is amended by adding Section 47.095 to read as follows:

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

SECTION 2.44. Article 6, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Sections 6.20-6.22 to read as follows:

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

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

Sec. 6.21. TRANSFER FEE. The commission may not approve the sale, transfer, assignment, or other conveyance of any interest or control in a pari-mutuel license or the racetrack owned or managed by the license holder if the license holder holds a video lottery retailer license under Subchapter K, Chapter 466, Government Code, until the transfer fee required by Section 466.5321, Government Code, is fully paid to this state.

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

Floor Amendment No. 1 on Third Reading to **CSHB 3** was read and failed of adoption by the following vote: Yeas 15, Nays 16.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Ellis, Gallegos, Harris, Hinojosa, Lucio, Madla, Seliger, Van de Putte, Wentworth, Williams, Zaffirini.

Nays: Carona, Deuell, Duncan, Eltife, Estes, Fraser, Jackson, Janek, Lindsay, Nelson, Ogden, Shapiro, Shapleigh, Staples, West, Whitmire.

CSHB 3 was finally passed by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Shapiro, Staples, Wentworth, Whitmire, Zaffirini.

Nays: Barrientos, Ellis, Eltife, Gallegos, Nelson, Seliger, Shapleigh, Van de Putte, West, Williams.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Natural Resources might meet and consider the following bills today:

SB 1512, SB 1724, SB 1890, SB 1891, HB 422, HB 467, HB 841, HB 856, HB 1224, HB 1225, HB 2172, HB 2510, HB 2685, HB 2940.

RECESS

On motion of Senator Whitmire, the Senate at 2:08 a.m. recessed until 12:00 noon today.