

TEXAS

ALCOHOLIC BEVERAGE CODE

TITLE 2. ADMINISTRATION OF CODE

CHAPTER 6. ACTIVITIES SUBJECT TO REGULATION

Sec. 6.03. Citizenship Requirements.

(a) It is the public policy of this state and a purpose of this section to require that, except as provided in Subsection (k) of this section or otherwise in this code, a permit or license may not be issued to a person who was not a citizen of this state for a one-year period preceding the date of the filing of the person's application for a license or permit. In that regard, the legislature makes the findings in Subsections (b) through (j) of this section. (b) Between 1920 and 1933, the distribution and consumption of alcoholic beverages was prohibited in the United States. While the idealistic motives behind Prohibition were noble, a law enforcement nightmare ensued. Otherwise law-abiding citizens routinely violated the law by buying and consuming alcoholic beverages. The demand for the illegal products created an opportunity for criminal elements to develop a national network for the supply and distribution of alcoholic beverages to the populace. Massive criminal empires were built on illicit profits from these unlawful activities and organized crime openly flourished in Chicago, New York, New Orleans, and other cities. (c) During Prohibition, the illegal enterprises used their national wholesale distribution networks to exert control over their customers. A common operating procedure was to sell alcoholic beverages to a speakeasy on liberal terms to ensnare the owner in a web of debt and control with the aim of forcing the owner to engage in other illegal business enterprises on the premises including gambling, prostitution, and the distribution of illegal drugs. (d) In 1935, when the sale of alcoholic beverages was legalized in this state following the adoption of the Twenty-first Amendment to the United States Constitution, the state was faced with building an entire framework for the distribution of alcoholic beverage products. An important concern was that since criminals owned and controlled the existing illegal alcoholic beverage distribution system, criminals would attempt to own and control the newly legalized industry. In an effort to prevent this situation, comprehensive laws were adopted to ensure that an alcoholic beverage permit or license could be issued only to citizens of the state who had lived in this state for at least three years, thus, long enough to be known by their community and neighbors. (e) Under the newly designed regulatory scheme, permits and licenses issued by the state did not grant the holder a right. Rather, the holder was granted a privilege that could be challenged at both the county and the state level if the character or qualifications of the applicant were suspect. Finally, strict cash and credit laws were adopted to prevent parties in the wholesale distribution system from controlling their retail customers through the leveraging of debt to accomplish other illicit gain. (f) The alcoholic beverage laws adopted by the legislature in the 1930s to free the industry from the influence of organized crime have been successful in this state. The alcoholic beverage industry in this state is not dominated by organized crime. However, the legislature does find that organized crime continues to be a threat that should never be allowed to establish itself in the alcoholic beverage industry in this state. (g) To accommodate the interests of the consuming public, the expansion of popular nationwide businesses, and the increasing state interest in tourism, and at the same time to guard against the threats of organized crime, unfair competition, and decreased opportunities for small businesses, the legislature finds that there is no longer need for the three-year residency requirements with regard to those segments of the industry that sell alcoholic beverages to the ultimate consumer only. The legislature finds that it is desirable to retain a one-year residency requirement for businesses that sell to the consumer packaged liquor and fortified wine capable of being used to supply legal or illegal bars and clubs. The legislature also finds it reasonable, desirable, and in the best interests of the state to provide a one-year residency requirement for businesses engaged in the wholesale distribution of beer, malt liquor, or wine or in the manufacture and distribution of distilled spirits and fortified wines at both the wholesale and the retail levels where those beverages, in unopened containers, are sold to mixed beverage permittees and private club registration permittees as well as to the general public. Adequate protection is deemed to be provided by controlling those sources of

supply for distilled spirits and fortified wines. (h) It is also the public policy of this state and a purpose of this section to enforce strict cash and credit laws as a means of preventing those engaged in the distribution of alcoholic beverages from exerting undue influence over any level of the industry selling or serving alcoholic beverages to the ultimate consumer. (i) It is also the public policy of this state and a purpose of this section to maintain and enforce the three-tier system (strict separation between the manufacturing, wholesaling, and retailing levels of the industry) and thereby to prevent the creation or maintenance of a "tied house" as described and prohibited in Section 102.01 of this code. (j) The above-stated public policies, purposes of this section, and legislative findings are provided as guidelines for the construction of the following subsections of this section. (k) A requirement under this code that 51 percent or more of the stock of a corporation be owned by a person or persons who were citizens of this state for a one-year period preceding the date of the filing of an application for a license or permit does not apply to a corporation organized under the laws of this state that applies for a license or permit under Chapters 25-34, Chapter 44, Chapters 48-51, Chapters 69-72, or Chapter 74 of this code if: (1) all of the officers and a majority of directors of the applicant corporation have resided within the state for a one-year period preceding the date of the application and each officer or director possesses the qualifications required of other applicants for permits and licenses; (2) the applicant corporation and the applicant's shareholders have no direct or indirect ownership or other prohibited relationship with others engaged in the alcoholic beverage industry at different levels as provided by Chapter 102 of this code and other provisions of this code; (3) the applicant corporation is not precluded by law, rule, charter, or corporate bylaw from disclosing the applicant's shareholders to the commission; and (4) the applicant corporation maintains its books and records relating to its alcoholic beverage operations in the state at its registered office or at a location in the state approved in writing by the commission. (l) Corporations subject to Subsection (k) of this section that have substantially similar ownership may merge or consolidate. A fee of \$100 shall be paid to the commission for each licensed or permitted premises that is merged or consolidated into the surviving corporation. The surviving corporation succeeds to all privileges of the prior corporation that held the permits or licenses if the surviving corporation is qualified to hold the permits or licenses under this code. For the purposes of this subsection, corporations have substantially similar ownership if 90 percent or more of the corporations is owned by the same person or persons or by the same corporation or corporations or if the surviving corporation has maintained an ownership interest in the merged or consolidated corporations since the date the original permit or license was issued. Added by Acts 1993, 73rd Leg., ch. 934, Sec. 16, eff. Sept. 1, 1993.

TITLE 3. LICENSES AND PERMITS

SUBTITLE A. PERMITS

CHAPTER 11. PROVISIONS GENERALLY APPLICABLE TO PERMITS

SUBCHAPTER C. CANCELLATION AND SUSPENSION OF PERMITS

Sec. 11.64. Alternatives to Suspension, Cancellation.

(a) When the commission or administrator is authorized to suspend a permit or license under this code, the commission or administrator shall give the permittee or licensee the opportunity to pay a civil penalty rather than have the permit or license suspended, unless the basis for the suspension is a violation of Section 11.61(b)(14), 22.12, 28.11, 61.71(a)(5), 61.71(a)(6), 61.74(a)(14), 69.13, 71.09, 101.63, 106.03, or 106.06 or an offense relating to prostitution or gambling, in which case the commission or administrator shall determine whether the permittee or licensee may have the opportunity to pay a civil penalty rather than have the permit or license suspended. The commission shall adopt rules addressing when suspension may be imposed pursuant to this section without the opportunity to pay a civil penalty. In adopting rules under this subsection, the commission shall consider the type of license or permit held, the type of violation, any aggravating or ameliorating circumstances concerning the violation, and any past violations of this code by the permittee or licensee. In cases in which a civil penalty is assessed, the commission or administrator

shall determine the amount of the penalty and in doing so shall consider the economic impact a suspension would have on the permittee or licensee. The amount of the civil penalty may not be less than \$150 or more than \$25,000 for each day the permit or license was to have been suspended. If the licensee or permittee does not pay the penalty before the sixth day after the commission or administrator notifies him of the amount, the commission or administrator shall impose the suspension. (b) In the case of a violation of this code by a permittee or a retail dealer's off-premise licensee, the commission or administrator may relax any provision of the code relating to the suspension or cancellation of the permit or license and assess a sanction the commission or administrator finds just under the circumstances, and the commission or administrator may reinstate the license or permit at any time during the period of suspension on payment by the permittee or licensee of a fee of not less than \$75 nor more than \$500, if the commission or administrator finds that any of the circumstances described in Subsection (c) of this section exists. (c) The following circumstances justify the application of Subsection (b) of this section: (1) that the violation could not reasonably have been prevented by the permittee or licensee by the exercise of due diligence; (2) that the permittee or licensee was entrapped; (3) that an agent, servant, or employee of the permittee or licensee violated this code without the knowledge of the permittee or licensee; (4) that the permittee or licensee did not knowingly violate this code; or (5) that the violation was a technical one. (d) Fees and civil penalties received by the commission under this section shall be deposited in the confiscated liquor fund until the unexpended and unencumbered balance contained in the confiscated liquor fund on September 1, 1983, and the amount deposited in the fund from all sources on or after September 1, 1983, totals \$2.4 million. Thereafter, fees and civil penalties received by the commission under this section shall be deposited in the general revenue fund. Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1180, ch. 453, Sec. 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 1355, ch. 278, Sec. 59, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 934, Sec. 25, eff. Sept. 1, 1993.

CHAPTER 25. WINE AND BEER RETAILER'S PERMIT

Sec. 25.06. Denial of Original Application.

(a) The county judge shall deny an original application for a wine and beer retailer's permit if he finds that the applicant, or the applicant's spouse, during the three years immediately preceding the application, was finally convicted of a felony or one of the following offenses: (1) prostitution; (2) a vagrancy offense involving moral turpitude; (3) bookmaking; (4) gambling or gaming; (5) an offense involving controlled substances as defined in Chapter 481, Health and Safety Code or other dangerous drugs; (6) a violation of this code resulting in the cancellation of a license or permit, or a fine of not less than \$500; (7) more than three violations of this code relating to minors; (8) bootlegging; or (9) an offense involving firearms or a deadly weapon. (b) The county judge shall also deny an original application for a permit if he finds that three years have not elapsed since the termination of a sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony conviction or conviction of any of the offenses described in Subsection (a) of this section. (c) The commission shall refuse to issue a renewal of a wine or beer retailer's permit if it finds: (1) that the applicant, or the applicant's spouse, has been convicted of a felony or one of the offenses listed in Subsection (a) of this section at any time during the three years immediately preceding the filing of the application for renewal; or (2) that three years have not elapsed since the termination of a sentence, parole, or probation served by the applicant, or the applicant's spouse, of a felony conviction or conviction of any of the offenses described in Subsection (a) of this section. (d) In this section the word "applicant" includes the individual natural person holding or applying for the permit or, if the holder or applicant is not an individual natural person, the individual partner, officer, trustee, or receiver who is primarily responsible for the management of the premises. Acts 1977, 65th Leg., p. 426, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(56), eff. Sept. 1, 1991.

SUBTITLE B. LICENSES

CHAPTER 69. RETAIL DEALER'S ON-PREMISE LICENSE

Sec. 69.06. Denial of Original Application.

(a) The county judge shall deny an original application for a retail dealer's on-premise license if he finds that the applicant or the applicant's spouse, during the three years immediately preceding the application, was finally convicted of a felony or one of the following offenses: (1) prostitution; (2) a vagrancy offense involving moral turpitude; (3) bookmaking; (4) gambling or gaming; (5) an offense involving controlled substances as defined in the Texas Controlled Substances Act or other dangerous drugs; (6) a violation of this code resulting in the cancellation of a license or permit, or a fine of not less than \$500; (7) more than three violations of this code relating to minors; (8) bootlegging; or (9) an offense involving firearms or a deadly weapon. (b) The county judge shall also deny an original application for a license if he finds that three years has not elapsed since the termination of a sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony conviction or conviction of any of the offenses described in Subsection (a) of this section. (c) The commission shall refuse to issue a renewal of a retail dealer's on-premise license if it finds: (1) that the applicant or the applicant's spouse has been finally convicted of a felony or one of the offenses listed in Subsection (a) of this section at any time during the three years immediately preceding the filing of the application for renewal; or (2) that three years has not elapsed since the termination of a sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony prosecution or prosecution for any of the offenses described in Subsection (a) of this section. (d) In this section the word "applicant" includes the individual natural person holding or applying for the license or, if the holder or applicant is not an individual natural person, the individual partner, officer, trustee, or receiver who is primarily responsible for the management of the premises. Acts 1977, 65th Leg., p. 483, ch. 194, Sec. 1, eff. Sept. 1, 1977.

CIVIL PRACTICE AND REMEDIES CODE

TITLE 6. MISCELLANEOUS PROVISIONS

CHAPTER 125. COMMON AND PUBLIC NUISANCES

SUBCHAPTER A. SUIT TO ABATE CERTAIN COMMON NUISANCES

Sec. 125.001. Common Nuisance.

(a) A person who knowingly maintains a place to which persons habitually go for the following purposes maintains a common nuisance: (1) prostitution or gambling in violation of the Penal Code; (2) discharge of a firearm in a public place in violation of Section 42.01(a)(9), Penal Code; (3) reckless discharge of a firearm as described by Section 42.12, Penal Code; (4) engaging in organized criminal activity as a member of a combination as described by Section 71.02, Penal Code; or (5) delivery, possession, manufacture, or use of a controlled substance in violation of Chapter 481, Health and Safety Code. (b) A person maintains a common nuisance if the person: (1) knowingly maintains a multiunit residential property described by Subsection (c) to which persons habitually go to commit the following acts: (A) aggravated assault as described by Section 22.02, Penal Code; (B) sexual assault as described by Section 22.011, Penal Code; (C) aggravated sexual assault as described by Section 22.021, Penal Code; (D) robbery as described by Section 29.02, Penal Code; (E) aggravated robbery as described by Section 29.03, Penal Code; or (F) unlawfully carrying a weapon as described by Section 46.02, Penal Code; and (2) has failed to make reasonable attempts to abate such acts. (c) Subsection (b) applies only to a multiunit residential property, as that term is defined by Section 125.041, as amended by Section 1, Chapter 818, Acts of the 74th Legislature, 1995, that is located in a municipality that has a population of at least 440,000. Acts 1985, 69th Leg., ch. 959, Sec. 1,

eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 14, Sec. 284(42), eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 857, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 968, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 14.03, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 25, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 663, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1181, Sec. 1, eff. Sept. 1, 1997.

Sec. 125.002. Suit to Abate Common Nuisance; Bond.

(a) A suit to enjoin and abate a common nuisance may be brought by an individual, by the attorney general, or by a district, county, or city attorney. The suit must be brought in the county in which it is alleged to exist against the person who is maintaining or about to maintain the nuisance. The suit must be brought in the name of the state if brought by the attorney general or a district or county attorney, in the name of the city if brought by a city attorney, or in the name of the individual if brought by a private citizen. Verification of the petition or proof of personal injury by the acts complained of need not be shown. For purposes of this subsection, personal injury may include economic or monetary loss. (b) If judgment is in favor of the petitioner, the court shall grant an injunction ordering the defendant to abate the nuisance and enjoining the defendant from maintaining or participating in the nuisance. The judgment must order that the place where the nuisance exists be closed for one year after the date of judgment unless the defendant or the real property owner, lessee, or tenant of the property posts bond. (c) The bond must: (1) be payable to the state at the county seat of the county in which the nuisance exists; (2) be in the penal sum of \$10,000; (3) have sufficient sureties approved by the court; and (4) be conditioned that the property will not be used or permitted to be used for prostitution or gambling in violation of the Penal Code or for delivery or use of a controlled substance in violation of Chapter 481, Health and Safety Code. Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 959, Sec. 2, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 14, Sec. 284(42), eff. Sept. 1, 1991.

SUBCHAPTER B. SUIT TO ABATE CERTAIN PUBLIC NUISANCES

Sec. 125.021. Public Nuisance.

The habitual use or the threatened or contemplated habitual use of any place for any of the following purposes is a public nuisance: (1) gambling, gambling promotion, or communicating gambling information prohibited by law; (2) promotion or aggravated promotion of prostitution; (3) compelling prostitution; (4) commercial manufacture, commercial distribution, or commercial exhibition of obscene material; (5) commercial exhibition of live dances or other acts depicting real or simulated sexual intercourse or deviate sexual intercourse; (6) engaging in a voluntary fight between a man and a bull if the fight is for a thing of value or a championship, if a thing of value is wagered on the fight, or if an admission fee for the fight is directly or indirectly charged, as prohibited by law; (7) discharge of a firearm in a public place in violation of Section 42.01(a)(9), Penal Code; Text of subd. (8) as reenacted and amended by Acts 1995, 74th Leg., ch. 318, Sec. 28 (8) engaging in organized criminal activity as a member of a combination or as a member of a criminal street gang as described by Section 71.02, Penal Code; or Text of subd. (8) as amended by Acts 1995, 74th Leg., ch. 663, Sec. 5 (8) reckless discharge of a firearm as described by Section 42.12, Penal Code; (9) engaging in organized criminal activity as a member of a combination as described by Section 71.02, Penal Code; or (10) delivering or using a controlled substance in violation of Chapter 481, Health and Safety Code. Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 959, Sec. 5, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 14, Sec. 284(42), eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 857, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 968, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 14.07, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 28, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 663, Sec. 5, eff. Sept. 1, 1995.

SUBCHAPTER C. ADDITIONAL NUISANCE REMEDIES

Sec. 125.041. Definitions.

Text of section as amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.08, Acts 1995, 74th Leg., ch. 318, Sec. 29, and Acts 1995, 74th Leg., ch. 663, Sec. 6 For the purposes of this subchapter, a public nuisance is considered to exist at a place if one or more of the following acts occurs at that place on a regular basis: (1) gambling, gambling promotion, or communication of gambling information, as prohibited by Chapter 47, Penal Code; (2) promotion or aggravated promotion of prostitution, as prohibited by Chapter 43, Penal Code; (3) compelling prostitution, as prohibited by Chapter 43, Penal Code; (4) commercial manufacture, commercial distribution, or commercial exhibition of material that is obscene, as defined by Section 43.21, Penal Code; (5) commercial exhibition of a live dance or other act in which a person engages in real or simulated sexual intercourse or deviate sexual intercourse, as defined by Section 43.01, Penal Code; (6) discharge of a firearm in violation of Section 42.01(a)(9), Penal Code; (7) reckless discharge of a firearm as described by Section 42.12, Penal Code; (8) engaging in organized criminal activity as a member of a combination as described by Section 71.02, Penal Code; or (9) manufacture, delivery, or use of a controlled substance in violation of Chapter 481, Health and Safety Code. Added by Acts 1987, 70th Leg., ch. 959, Sec. 7, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(42), eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 857, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 968, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 14.08, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 29, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 663, Sec. 6, eff. Sept. 1, 1995. For text of section as amended by Acts 1995, 74th Leg., ch. 818, Sec. 1, see Sec. 125.041, post

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE C. STATE MILITARY FORCES AND VERANS

CHAPTER 431. STATE MILITIA

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 431.012. Interference With State Military Forces.

(a) A person who intentionally hinders, delays, or obstructs or who intentionally attempts to hinder, delay, or obstruct a portion of the state military forces on active duty in the service of the state in performance of a military duty commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 nor more than \$1,000, by imprisonment for not less than one month nor more than one year, or by both. (b) The commanding officer of a portion of the state military forces parading or performing a military duty in a street or highway may require a person in the street or highway to yield right-of-way to the forces, except that the commanding officer may not interfere with the carrying of the United States mail, a legitimate function of the police, or the progress or operation of a hospital ambulance or fire department. (c) During an occasion of duty, a commanding officer may arrest a person who: (1) trespasses on the campground, parade ground, armory, or other place devoted to the duty; (2) interrupts or molests the orderly discharge of duty by those under arms; or (3) disturbs or prevents the passage of troops going to or coming from duty. (d) The commanding officer may prohibit and abate as a common nuisance a huckster or auction sale or gambling on the post, campground, or place of encampment, parade, or drill under the officer's command. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

SUBTITLE E. OTHER EXECUTIVE AGENCIES AND PROGRAMS

CHAPTER 466. STATE LOTTERY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 466.001. Short Title.

This chapter may be cited as the State Lottery Act.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.002. Definitions.

In this chapter:

- (1) "Commission" means the Texas Lottery Commission.
- (2) "Director" means the director of the division.
- (3) "Division" means the lottery division established by the commission under Chapter 467.
- (4) "Executive director" means the executive director of the commission.
- (5) "Lottery" means the 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.
- (6) "Lottery game" includes a lottery activity.
- (7) "Lottery operator" means a person selected under Section 466.014(b) to operate a lottery.
- (8) "Player" means a person who contributes any part of the consideration for a ticket.
- (9) "Sales agent" or "sales agency" means a person licensed under this chapter to sell tickets.

(10) "Ticket" means any tangible evidence issued to provide participation in a lottery game authorized by this chapter.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.01, eff. Sept. 1, 1995.

Sec. 466.003. Application of Sunset Act.

(a) The lottery division is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the division is abolished and this chapter expires September 1, 2003.

(b) A contract between the division and a lottery operator under Section 466.014(b) must terminate on or before September 1, 2004.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.004. Exemption From Taxation.

(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.

(b) The receipts from the sale, use, or other consumption of a ticket are exempt from taxation under Chapter 151, Tax Code.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

SUBCHAPTER B. ADMINISTRATION

Sec. 466.012. Division Employees.

Division employees are specifically exempted from Chapter 654. The director shall set the salaries of these employees.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.02, eff. Sept. 1, 1995.

Sec. 466.014. Powers and Duties of Commission and Executive Director.

(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 person with whom the executive director contracts to operate a lottery must be eligible for a sales agent license under Section 466.155.

(c) The executive director may award a contract for lottery supplies or services, including a contract under Subsection (b), pending the completion of any investigation authorized 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.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.03, eff. Sept. 1, 1995.

Sec. 466.015. Rules.

(a) The commission shall adopt all rules necessary to administer this chapter. The executive director may propose rules to be adopted by the commission, but the executive director's proposed rules have no effect until adopted by the commission.

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

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

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

tickets to or (3) enforcement of prohibitions on the sale of by an individual younger than 18 years of age; and

playing a (4) enforcement of prohibitions on a person

lottery game by telephone.

(c) The commission may adopt rules governing the establishment and operation of the lottery, including rules governing:

- (1) the type of lottery games to be conducted;
- (2) the price of each ticket;
- (3) the number of winning tickets and amount of the prize paid on each winning ticket, except that the total amount of prizes awarded under this chapter may not exceed the amount described in Subsection (d);
- (4) the frequency of the drawing or selection of a winning ticket;
- (5) the number and types of locations at which a ticket may be sold;
- (6) the method to be used in selling a ticket;
- (7) the use of vending machines or electronic or mechanical devices of any kind, other than machines or devices that dispense currency or coins as prizes;
- (8) the manner of paying a prize to the holder of a winning ticket;
- (9) the investigation of possible violations of this chapter or any rule adopted under this chapter;
- (10) the means of advertising to be used for the lottery;
- (11) the qualifications of vendors of lottery services or equipment;
- (12) the confidentiality of information relating to the operation of the lottery, including:
 - (A) trade secrets;
 - (B) security measures, systems, or procedures;
 - (C) security reports;
 - (D) bids or other information regarding the commission's

contracts, if disclosure of the information would impair the commission's ability to contract for facilities, goods, or services on terms favorable to the commission;

(E) personnel information unrelated to compensation, duties, qualifications, or responsibilities; and

(F) information obtained by commission security officers or investigators;

(13) the development and availability of a model agreement governing the division of a prize among multiple purchasers of a winning ticket purchased through a group purchase or pooling arrangement;

(14) the criteria to be used in evaluating bids for contracts for lottery facilities, goods, and services; or

(15) any other matter necessary or desirable as determined by the commission, to promote and ensure:

(A) the integrity, security, honesty, and fairness of the operation and administration of the lottery; and

(B) the convenience of players and holders of winning tickets.

(d) The total amount of lottery prizes that the commission may award for all lottery games in any fiscal year may not exceed an amount equal to the gross revenue from the sale of tickets in that fiscal year multiplied by the percentage amount of lottery prizes awarded for all lottery games in fiscal year 1997 as determined by the comptroller minus an amount equal to five percent of gross lottery revenue for the fiscal year in which the prizes are being awarded.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Secs. 5.95(83), (94), 6.04, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 592, Sec. 3.01, eff. Sept. 1, 1997.

Sec. 466.016. Annual Report.

The commission shall make an annual report to the governor and the legislature that provides a summary of lottery revenues, prize disbursements, and other expenses for the fiscal year preceding the report. The report must be in the form and reported in the time provided by the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.04, eff. Sept. 1, 1995.

Sec. 466.0161. Review by Comptroller.

(a) Annually, the comptroller shall review the management and operations of the lottery. The comptroller may examine books, records, documents, things, or persons as necessary for that purpose.

(b) The comptroller shall report the results of the review to the governor, the lieutenant governor, and the speaker of the house of representatives.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 6.05, eff. Sept. 1, 1995.

Sec. 466.017. Audits.

(a) The executive director shall provide for a certified public accountant to conduct an independent audit 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. 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) Each lottery 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. The executive director or state auditor may conduct an examination at the principal office or any other office of the lottery operator or sales agent or may require the lottery operator or sales agent to produce the records at the office of the commission or state auditor. If a sales agent refuses to permit an examination or to answer any question authorized by this subsection, the executive director may summarily suspend the license of the sales agent under Section 466.160 until the examination is completed as required. Section 321.013(h) does not apply to an audit of a

lottery operator or sales agent.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.06, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1035, Sec. 66, eff. Sept. 1, 1997.

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.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.07, eff. Sept. 1, 1995.

Sec. 466.019. Enforcement.

(a) The executive director or designated personnel of the commission may investigate violations of this chapter and violations of the rules adopted under this chapter. After conducting investigations, the executive director, a person designated by the commission, or any law enforcement agency may file a complaint with the district attorney of Travis County or with the district attorney of the county in which a violation is alleged to have occurred.

(b) The executive director has the administrative, enforcement, and collection powers provided by Subtitle B, Title 2, Tax Code, in regard to the lottery. For purposes of the application of Title 2 of the Tax Code:

(1) the state's share of proceeds from the sale of lottery

tickets is treated as if it were a tax; and

(2) a power granted to the comptroller may be exercised by

the commission.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.07, eff. Sept. 1, 1995.

Sec. 466.020. Security.

(a) The executive director shall maintain a department of security in the commission. The executive director shall appoint a deputy to administer the department. The deputy must be qualified by training and experience in law enforcement or security to supervise, direct, and administer the activities of the department.

(b) The executive director may employ security officers or investigators as the executive director considers necessary and may commission security officers or investigators as peace officers. The deputy and all investigators employed by the department of security as peace officers must meet the requirements under Chapter 415 for employment and commission as peace officers.

(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, without a search warrant, may search and seize a lottery vending machine, lottery computer terminal, or other lottery equipment that is located on premises for which a person holds a sales agent license issued under this chapter.

(d) The Department of Public Safety, at the commission's request, shall perform a full criminal background investigation of a prospective deputy or investigator of the department of security. The commission shall reimburse the 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;

procedures;

- (9) security of validation and payment
- (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) other security aspects of lottery operations.

(f) The executive director shall provide the commission with a complete report of the security study conducted under Subsection (e). The commission shall provide the governor and the legislature, before the convening of each regular legislative session, with a summary of the security study that shows the overall evaluation of the lottery's security.

(g) Expired.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.08, eff. Sept. 1, 1995.

Sec. 466.021. Demographic Studies.

(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 include the income, age, sex, race, education, and frequency of participation of players.

(b) The executive director shall report the results of the demographic study conducted under Subsection (a) to the commission, the governor, and the legislature before the convening of each regular legislative session.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.09, eff. Sept. 1, 1995.

Sec. 466.022. Confidential Information.

(a) Except as otherwise provided by law, all commission records are subject to public inspection in accordance with Chapter 552.

(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.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Secs. 5.95(94), 6.09, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 792, Sec. 1, eff. Sept. 1, 1997.

Sec. 466.023. Department of Public Safety Records.

(a) Except as otherwise provided by this chapter, all files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters collected, retained, or compiled by the Department of Public Safety in the discharge of its duties under this chapter are confidential and are not subject to public disclosure. Each of those items is subject to discovery by a person that is the subject of the item.

(b) An investigation report or other document submitted by the Department of Public Safety to the commission becomes part of the investigative files of the commission and is subject to discovery by a person that is the subject of the investigation report or other document.

(c) Information that is in the form available to the public is not privileged or confidential under this section and is subject to public disclosure.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.10, eff. Sept. 1, 1995.

Sec. 466.024. Prohibited Games.

(a) The executive director or a lottery operator may not

establish or operate a lottery game in which the winner is chosen on the basis of the outcome of a sports event.

(b) The commission shall adopt rules prohibiting the operation of any game using a video lottery machine or machine.

(c) In this section:

(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.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.11, eff. Sept. 1, 1995.

Sec. 466.025. Reports of Tickets Sold and Prizes Awarded.

For each 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.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

SUBCHAPTER C. PROCUREMENT; ADVERTISING

Sec. 466.101. Procurement Procedures.

(a) The executive director may establish procedures for the purchase or lease of facilities, goods, and services and make any purchases, leases, or contracts that are necessary for carrying out the purposes of this chapter. The procedures must, as determined feasible and appropriate by the executive director, promote competition to the maximum extent possible.

(b) In all procurement decisions, the executive director shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the

lottery and the objective of producing revenues for the state treasury.

(c) The procurement procedures adopted by the executive director must, as determined feasible and appropriate by the executive director, afford any party who is aggrieved by the terms of a solicitation or the award of a contract an opportunity to protest the executive director's action to the commission. The protest procedures must provide for an expedient resolution of the protest in order to avoid substantially delaying a solicitation or contract award that is necessary for the timely implementation of a lottery game. A protest must be in writing and be filed with the commission not later than 72 hours after receipt of notice of the executive director's action.

(d) A party who is aggrieved by the commission's resolution of a protest under Subsection (c) may file an action in the district court of Travis County. The court shall give preference to hearings and trials of actions under this section. If the party filing the action seeks to enjoin the implementation of a solicitation or contract, the party shall post a bond that is payable to the state if the party does not prevail in the appeal, and is in an amount sufficient to compensate the state for the revenue that would be lost due to the delay in lottery operations.

(e) The commission shall require any person seeking to contract for goods or services relating to the implementation and administration of this chapter to submit to competitive bidding procedures in accordance with rules adopted by the commission. The procedures must be for the purpose of ensuring fairness and integrity.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.12, eff. Sept. 1, 1995.

Sec. 466.102. Liquidated Damages; Performance Bond.

A contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the operation of the lottery must provide for liquidated damages and a performance bond in an amount equal to the executive director's best available estimate of the revenue that would be lost if the contractor fails to meet deadlines specified in the contract.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.12, eff. Sept. 1, 1995.

Sec. 466.103. Prohibited Contracts.

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 would be denied a license as a sales agent under Section 466.155.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.12, eff. Sept. 1, 1995.

Sec. 466.104. Assistance of General Services Commission.

On request of the executive director, the General Services Commission shall assist the executive director in:

- (1) acquiring facilities, supplies, materials, equipment,
and services under Subtitle D, Title 10; or
- (2) establishing procedures for the executive director's
accelerated acquisition of facilities, supplies, materials, equipment, and services for the operation of the lottery.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.12, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.19(5), eff. Sept. 1, 1997.

Sec. 466.105. Applicability of Other Law.

(a) A contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the operation of the lottery is not subject to:

- (1) Chapter 2054 or 2254; or
- (2) Subtitle D, Title 10.

(b) Notwithstanding the provisions of the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), the commission may negotiate rates and execute contracts with telecommunications service providers for the interexchange services necessary for the operation of the lottery. The commission may acquire transmission facilities by lease, purchase, or lease-purchase. The acquisition of transmission facilities must be done on a competitive bid basis if possible.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Secs. 5.95(14), 6.13, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.19(5), eff. Sept. 1, 1997.

Sec. 466.106. Preference for Texas Businesses.

(a) In all contracts for lottery equipment, supplies, services, and advertising, the commission and each lottery operator shall give preference to equipment or supplies produced in this state or services or advertising offered by bidders from this state, the cost to the state and quality being equal.

(b) If equipment or supplies produced in this state or services or advertising offered by a bidder from this state are not equal in cost and quality, then equipment or supplies produced in another state or services or advertising offered by a bidder from another state shall be given preference over foreign equipment, supplies, services, or advertising.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.14, eff. Sept. 1, 1995.

Sec. 466.107. Minority Businesses.

(a) The executive director and each lottery operator shall take positive steps to:

- (1) inform minority businesses of opportunities to:
 - (A) provide lottery equipment and supplies to the commission;
 - (B) provide services, including advertising, to the commission for the operation of the lottery; or
 - (C) obtain a license to sell lottery tickets;
- (2) waive or modify bond requirements, if feasible;
- (3) award contracts for lottery equipment or supplies to minority businesses when possible;
- (4) award contracts for lottery services, including advertising, to minority businesses when possible;
- (5) license minority businesses as sales agents;
- (6) monitor the effectiveness of the efforts to increase the ability of minority businesses to do business with the commission; and

(7) require all bidders or contractors, when appropriate, to include specific plans or arrangements to use subcontracts with minority businesses.

(b) In this section:

(1) "Minority business" means a business entity at least 51 percent of which is owned by minority group members or, in the case of a corporation, at least 51 percent of the shares of which are owned by minority group members, and that:

(A) is managed and, in daily operations, is controlled by minority group members; and

(B) is a domestic business entity with a home or branch office located in this state and is not a branch or subsidiary of a foreign corporation, firm, or other business entity.

(2) "Minority group members" includes:

(A) African Americans;

(B) American Indians;

(C) Asian Americans; and

(D) Mexican Americans and other Americans of Hispanic origin.

(c) The commission shall annually report to the legislature and the governor on the level of minority business participation as pertains to both the commission's contracts and the licensing of sales agents. The report must include recommendations for the improvement of minority business opportunities in lottery-related business.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.15, eff. Sept. 1, 1995.

Sec. 466.108. Television Contracts.

If the drawing or selection of winning tickets is televised under a contract with the commission, the contract must be awarded by competitive bid. The commission shall adopt rules governing the competitive bidding process. Money received under the contract shall be deposited in the state lottery account

established under Section 466.355.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.16, eff. Sept. 1, 1995.

Sec. 466.109. Publicity of Individuals Prohibited.

(a) A state officer, including a commission member or the executive director, or an officer or employee of the commission, may not appear in an advertisement or promotion for the lottery that is sponsored by the commission or in a televised lottery drawing. An advertisement or promotion for the lottery may not contain the likeness or name of a state officer, including a commission member or the executive director, or an officer or employee of the commission.

(b) In connection with providing security for the lottery, this section does not prohibit a security officer or investigator employed by the commission from appearing in a televised lottery drawing or other promotion for the lottery that is sponsored by the commission .

(c) Notwithstanding this section, the executive director may designate an employee of the commission to participate in a promotional event.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.16, eff. Sept. 1, 1995.

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.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.17, eff. Sept. 1, 1995.

SUBCHAPTER D. LICENSING OF SALES AGENTS

Sec. 466.151. License Required.

(a) If the executive director authorizes a person who is not an employee of the commission to sell tickets, the person must be licensed as a sales agent by the commission.

(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.

(c) The director shall attempt to license minority businesses as sales agents in at least 20 percent of the licenses issued.

Implementation of this subsection must be consistent with Sections 466.152-466.154 and the rest of this section.

(d) The director may license as a sales agent each person the director believes will best serve the public convenience. The director may not issue a license to a person to engage in business exclusively as a sales agent. A license may not be transferred or assigned to any other person or location.

(e) The director may issue a license to a person only if the director finds that the person's experience, character, and general fitness are such that the person's participation as a sales agent will not detract from the integrity, security, honesty, and fairness of the operation of the lottery.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.18, eff. Sept. 1, 1995.

Sec. 466.152. License Application; Fee.

(a) An applicant for a license under this subchapter must apply to the division under rules adopted by the commission, provide information necessary to determine the applicant's eligibility for a license under Section 466.155, and provide other information considered necessary by the commission.

(b) The applicant must include an application fee with each application. The director shall set the application fee in an amount that is at least sufficient to cover the costs incurred by the division and by the Department of Public Safety to process the application. The director shall determine from information provided by the department the amount required for costs incurred by the department and shall allocate those amounts to the department at least monthly. If the director denies an application for a license based on a factor listed in Section 466.154, the director shall refund one-half of the application fee to the applicant. If the director denies an application based on another factor, the director may not refund any part of the application fee.

(c) Applications for licenses must be available for public inspection during regular office hours.

(d) A separate license is required for each location at which tickets are to be sold. A person who desires to operate more than one location to sell tickets must submit a separate application for each location.

(e) Fees collected under this section shall be deposited in the state treasury to the credit of the state lottery account.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.19, eff. Sept. 1, 1995.

Sec. 466.153. Change in Application Information.

(a) Except as provided by Subsection (b), an applicant or sales agent shall notify the director of any change in the information in the applicant's or sales agent's most recent application for a license or renewal of a license. The applicant or sales agent shall notify the director of the change in the information not later than the 10th day after the date of the change.

(b) A corporate applicant or sales agent is not required to notify the director under Subsection (a) of a transfer of less than 10 percent of the corporate stock unless the transfer results in a shareholder who previously held 10 percent or less of the stock holding more than 10 percent of the stock.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.154. Rules.

The commission shall adopt rules under which, before issuing a license to an applicant, the director shall consider:

(1) the financial responsibility and security of the applicant and the business or activity in which the applicant is engaged;

(2) the public accessibility of the applicant's place of business or activity;

(3) the sufficiency of existing sales agents to serve the public convenience;

(4) whether individuals under 18 years of age constitute a majority of the applicant's customers or as customers provide a majority of the applicant's sales volume;

(5) the volume of expected sales; and

(6) any other factor that the director considers appropriate.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.20, eff. Sept. 1, 1995.

Sec. 466.155. Denial of Application or Suspension or Revocation of License.

(a) After a hearing, the director shall deny an application for a license or the commission shall suspend or revoke a license if the director or commission, as applicable, finds that the applicant or sales agent:

(1) is an individual who:

(A) has been convicted of a felony, criminal fraud, gambling or a gambling-related offense, or a misdemeanor involving moral turpitude, if less than 10 years has elapsed since the termination of the sentence, parole, mandatory supervision, or probation served for the offense;

(B) is or has been a professional gambler;

(C) is married to an individual:

(i) described in Paragraph (A) or (B); or

(ii) who is currently delinquent in the payment of any state tax;

(D) is an officer or employee of the commission or a lottery operator; or

(E) is a spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of a person described by Paragraph (D);

(2) is not an individual, and an individual described in Subdivision (1):

(A) is an officer or director of the applicant or sales agent;

(B) holds more than 10 percent of the stock in the applicant or sales agent;

(C) holds an equitable interest greater than 10 percent in the applicant or sales agent;

(D) is a creditor of the applicant or sales agent who holds more than 10 percent of the applicant's or sales agent's outstanding debt;

(E) is the owner or lessee of a business that the applicant or sales agent conducts or through which the applicant will conduct a ticket sales agency;

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

(G) participates in managing the affairs of the applicant or sales agent;

(3) is currently delinquent in the payment of any state tax;

(4) is a person whose location for the sales agency is:

(A) a location licensed for games of bingo under the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes);

(B) on land that is owned by:

(i) this state; or

(ii) a political subdivision of this state and on which is located a public primary or secondary school, an institution of higher education, or an agency of the state; or

(C) 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; or

(5) has violated this chapter or a rule adopted under this chapter.

(b) If the director proposes to deny an application for a license or the commission proposes to suspend or revoke a license under this section, the applicant or sales agent is entitled to written notice of the time and place of the hearing. A notice may be served on an applicant or sales agent personally or sent by certified or registered mail, return receipt requested, to the person's mailing address as it appears on the commission's

records. A notice must be served or mailed not later than the 20th day before the date of the hearing. The commission shall provide for a formal administrative hearings process.

(c) At a hearing, an applicant or sales agent must show by a preponderance of the evidence why the application should not be denied or the license suspended or revoked.

(d) The director shall give an applicant or sales agent written notice of a denial of an application or a suspension or revocation of a license.

(e) The director may not issue a license to a person who has previously had a license under this chapter revoked unless the director is satisfied the person will comply with this chapter and the rules adopted under this chapter. The director may prescribe the terms under which a suspended license will be reissued.

(f) The director may not issue a license to an applicant who fails to certify to the director the applicant's compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.21, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 696, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1275, Sec. 51, eff. Sept. 1, 1997.

Sec. 466.156. Bond; Insurance.

(a) Each sales agent shall post a cash bond, surety bond, letter of credit, certificate of deposit, or other security approved by the executive director, including the contribution of cash to a pooled bond fund established by the executive director to protect the state from possible losses. The amount of the security shall be determined by the executive director and must reflect the possible losses to the state from the operation of the sales agent.

(b) The executive director may also require a sales agent to maintain insurance if necessary to protect the interests of the state.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.22, eff. Sept. 1, 1995.

Sec. 466.157. Display of License.

As prescribed by rule, each sales agent shall prominently display the license in each place of business or activity at

which the sales agent sells tickets.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.22, eff. Sept. 1, 1995.

Sec. 466.158. Expiration of License; Renewal.

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

(b) The commission shall adopt rules for the renewal of licenses. The director shall set the fee for a renewal of a license in an amount at least sufficient to cover the cost of processing the renewal.

(c) A sales agent must file a renewal application and pay the renewal fee before the sales agent's license expires.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.23, eff. Sept. 1, 1995.

Sec. 466.159. Death, Dissolution, or Bankruptcy of Sales Agent.

(a) A license issued under this chapter expires on:

(1) the death of a sales agent who is an individual;

(2) the dissolution of a sales agent that is not an individual; or

(3) the bankruptcy or receivership of a sales agent.

(b) If a license expires under Subsection (a) and the sales agent's successor in interest desires to operate the sales agency, the successor shall file an application for an extended license not later than the 30th day after the date the license expired. The application must state the basis for the applicant's claim to be the successor in interest to the sales agent and must contain a certification that the applicant would be eligible for a license under Section 466.155. The director shall permit a qualified applicant to operate under an extended license for not more than one year or until a new license is issued to the applicant, whichever occurs first.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.160. Summary Suspension of License.

(a) The commission may suspend a sales agent's license summarily without notice or hearing if the commission finds that 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 the state and:

(1) the sales agent fails to deposit money received from ticket sales under Section 466.351;

(2) an event occurs that would render the sales agent ineligible for a license under Section 466.155;

(3) the sales agent refuses to permit the executive director, the director, the commission, or the state auditor to examine the agent's books, records, papers, or other objects under Section 466.017(b); or

(4) the executive director learns the sales agent has failed to disclose information that would, if disclosed, render the sales agent ineligible for a license under Section 466.155.

(b) The commission may summarily suspend a sales agent's license if proceedings for a preliminary hearing before the commission or the commission's representative are initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date not later than 10 days after the date of the summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the sales agent must show cause why the license should not remain suspended pending a final hearing on suspension or revocation. Chapter 2001 does not apply in the administration and enforcement of the summary suspension of a license under this section. The rules governing a hearing on any other license suspension or revocation under this chapter govern a final administrative hearing under this subsection.

(d) To initiate a proceeding to summarily suspend a sales agent's license, the commission must serve notice to the sales agent informing the agent of the right to a preliminary hearing and of the time and place of the preliminary hearing. The notice must be personally served on the sales agent or an officer, employee, or agent of the sales agent or sent by certified or registered mail, return receipt requested, to the sales agent's mailing address as it appears on the commission's records. The notice must state the alleged violations that constitute grounds for summary suspension. The suspension is effective at the time the notice is served. If notice is served in person, the sales

agent shall immediately surrender the license to the commission. If notice is served by mail, the sales agent shall immediately return the license to the commission. If the sales agent uses an on-line electronic terminal to sell tickets, the director or a lottery operator on the instructions of the director may terminate the connection of the terminal to the commission's lottery computer at the time:

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

(2) the division discovers the sales agent has failed to deposit money received from ticket sales, if the sales agent's license is being summarily suspended under Subsection (a)(1).

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Secs. 5.95(50), 6.24, eff. Sept. 1, 1995.

SUBCHAPTER E. CRIMINAL HISTORY INVESTIGATIONS

Sec. 466.201. Access to Criminal History Record Information.

(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 or prospective lottery operator;
- (4) an employee of a lottery operator or prospective lottery operator, 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.

(b) The commission shall conduct an investigation of and 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) the executive director or a prospective executive director;
or

(2) an employee or prospective employee of the commission.

(c) Not later than the first anniversary after the date of each renewal, the commission shall obtain criminal history record information maintained by the Department of Public Safety on a sales agent whose license is renewed under Section 466.158.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.25, eff. Sept. 1, 1995.

Sec. 466.202. Fingerprints.

(a) The executive director may discharge from employment an employee of the commission who fails to provide a complete legible set of fingerprints on request. The executive director

may refuse to consider a prospective employee of the commission who fails to provide a complete legible set of fingerprints on request.

(b) The executive director may deny an application for a license or the commission may suspend or revoke a license if the applicant or sales agent fails on request to provide a complete legible set of fingerprints of a person required to be named in a license application.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.26, eff. Sept. 1, 1995.

Sec. 466.203. Department of Public Safety Assistance; Costs of Investigation.

(a) The executive director may request the cooperation of the Department of Public Safety to perform a background investigation of a person listed in Section 466.201(a) or (b). The executive director shall reimburse the department for the actual cost of an investigation.

(b) The executive director may require a person who is subject to investigation to pay all costs of the investigation and to provide any information, including fingerprints, necessary to carry out the investigation or facilitate access to state or federal criminal history record information. Payments made to the executive director under this subsection shall be deposited in the general revenue fund and may be used to reimburse the Department of Public Safety for the actual costs of an investigation.

(c) Unless otherwise prohibited by law, the Department of Public Safety may retain any record or information submitted to it under this section. The department shall notify the executive director of any change in information provided to the executive director when the department learns of the change.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.27, eff. Sept. 1, 1995.

Sec. 466.204. Access to Internal Revenue Service Information.

The executive director may obtain information relating to a person's qualification for licensing, employment, or contracting under this chapter from the Internal Revenue Service under a contract between the comptroller and the Internal Revenue Service on:

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

- commission;
- (2) an employee or prospective employee of the
- application;
- (3) a person required to be named in a license
- operator;
- (4) a lottery operator or prospective lottery
- prospective lottery
- operator, if the employee is or will be directly involved in lottery operations;
- lottery
- (6) a person who manufactures or distributes equipment or supplies, or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;
- proposal to
- (7) a person who has submitted a written bid or the commission in connection with the procurement of goods or services by the commission;
- will work
- (8) an employee or other person who works for or for a sales agent or an applicant for a sales agent license;
- or
- has a
- (9) a person who proposes to enter into or who contract with the commission to supply goods or services to the commission.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.27, eff. Sept. 1, 1995.

Sec. 466.205. Confidential Information.

(a) All information received by the executive director from the Internal Revenue Service is confidential and may only be used as provided by the contract between the comptroller and the Internal Revenue Service under which the information was obtained.

(b) The commission shall adopt rules governing the custody and use of criminal history record information obtained under this subchapter.

The comptroller shall adopt necessary rules governing the custody and use of information obtained from the Internal Revenue Service under this subchapter.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.28, eff. Sept. 1, 1995.

SUBCHAPTER F. REGULATION OF GAMES

Sec. 466.251. Tickets.

- (a) The executive director shall prescribe the form of tickets.
- (b) The toll-free "800" telephone number established by the Texas Commission on Alcohol and Drug Abuse under Section 461.018, Health and Safety Code, must be printed on each ticket.
- (c) The overall estimated odds of winning a prize in a particular lottery game must be printed on each ticket and prominently displayed in association with the sale of lottery products. The estimate must be based on reasonable projections and past experience.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.29, eff. Sept. 1, 1995.

Sec. 466.252. Purchase of Ticket Agreement to Abide by Rules.

(a) By purchasing a ticket in a particular lottery game, a player agrees to abide by and be bound by the commission's rules, including the rules 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 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.

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

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.30, eff. Sept. 1, 1995.

Sec. 466.254. Purchase of Ticket by or Payment of Prize to Certain Persons.

A person may not purchase a ticket or claim, collect, or receive a lottery prize or a share of a lottery prize if the

person is:

(1) a member, officer, or employee of a person that has a contract with the commission to sell or lease goods or services used in the lottery;

(2) a member, officer, or employee of a lottery operator;

(3) an officer or employee of the commission; or

(4) a spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of a person described by Subdivision (1), (2), or (3).

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.32, eff. Sept. 1, 1995.

Sec. 466.256. Representatives by Person Claiming Lottery Prize.

A person claiming or attempting to claim a lottery prize or a share of a lottery prize represents that the ticket or other item showing that the person is entitled to the prize or share was lawfully obtained, is not stolen, forged, or altered, and has not previously been redeemed.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 6.34, eff. Sept. 1, 1995.

SUBCHAPTER G. OFFENSES

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, or employee of the division; and

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

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

Added by Acts 1995, 74th Leg., ch. 76, Sec. 6.35, eff. Sept. 1, 1995.

Sec. 466.3012. Aggregation of Amounts Involved.

When amounts are claimed, attempted to be claimed, or obtained in violation of this chapter pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the amounts aggregated in determining the grade of the offense.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 6.35, eff. Sept. 1, 1995.

Sec. 466.302. Sale of Ticket at Price Greater Than Fixed Price.

(a) A person commits an offense if the person intentionally or knowingly sells a ticket at a price the person knows is greater than that fixed by the commission or by the lottery operator authorized to set that price.

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

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.36, eff. Sept. 1, 1995.

Sec. 466.303. Sale of Ticket by Unauthorized Person.

(a) Except as provided by Subsection (b), a person who is not a sales agent or an employee of a sales agent commits an offense if the person intentionally or knowingly sells a ticket.

(b) A lottery operator may sell tickets to a sales agent. A person who is not a sales agent may distribute tickets as premiums to customers, employees, or other persons who deal with the person if no purchase is required to entitle the recipient to the ticket. A qualified organization as defined in Section 2, Charitable Raffle Enabling Act (Article 179f, Revised Statutes, as added by Chapter 957, Acts of the 71st Legislature, Regular Session, 1989), may distribute tickets as a prize in a raffle authorized by that Act.

(c) An offense under this section is a felony of the third degree.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.37, eff. Sept. 1, 1995.

Sec. 466.304. Sale of Ticket at Unauthorized Location.

(a) A person commits an offense if the person sells a ticket at a location other than the location of a sales agency.

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

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.305. Sale of Ticket on Credit.

(a) A sales agent or an employee of a sales agent commits an offense if the person intentionally or knowingly sells a ticket to another person by extending credit or lending money to the person to enable the person to purchase the ticket.

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

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.3051. Sale of Ticket to Person Younger Than 18 Years.

(a) A sales agent or an employee of a sales agent commits an offense if the person intentionally or knowingly sells or offers to sell a ticket to an individual that the person knows is younger than 18 years of age.

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

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

Renumbered from Sec. 466.253 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.31, eff. Sept. 1, 1995.

Sec. 466.3052. Sale of Ticket for Food Stamps, Credit or Debit Card, or by Telephone or Mail Order.

(a) A person commits an offense if the person intentionally or knowingly sells a ticket and:

(1) the person accepts:

(A) a food stamp coupon issued under the food stamp program administered under Chapter 33, Human Resources Code, as payment; or

(B) a credit card or a debit card as a source of payment;

(2) the sale is made over the telephone; or

(3) the sale is made by mail-order sales.

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

Renumbered from Sec. 466.255 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.33, eff. Sept. 1, 1995.

Sec. 466.3053. Purchase of Ticket with Proceeds of AFDC Check or Food Stamps.

(a) A person commits an offense if the person intentionally or knowingly purchases a ticket 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.

Renumbered from Sec. 466.255 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.33, eff. Sept. 1, 1995.

Sec. 466.3054. Group Purchase Arrangements.

(a) A person commits an offense if, for financial gain, the person establishes or promotes a group purchase or pooling arrangement under which tickets are purchased on behalf of the group or pool and any prize is divided among the members of the group or pool, and the person intentionally or knowingly:

(1) uses any part of the funds solicited or accepted for a purpose other than purchasing tickets on behalf of the group or pool; or

(2) retains a share of any prize awarded as compensation for establishing or promoting the group purchase or pooling arrangement.

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

Added by Acts 1995, 74th Leg., ch. 76, Sec. 6.38, eff. Sept. 1, 1995.

Sec. 466.306. Forgery; Alteration of Ticket.

(a) A person commits an offense if the person intentionally or knowingly alters or forges a 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 forged or altered is greater than \$10,000, in which event the offense is a felony of the second degree.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.307. Influencing Selection of Winner.

(a) A person commits an offense if the person intentionally or knowingly influences or attempts to influence the selection of the winner of a lottery game.

(b) An offense under this section is a felony of the third degree unless it is shown on the trial of the offense that a prize in the game influenced or attempted to be influenced is greater than \$10,000, in which event the offense is a felony of the second degree.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.308. Claiming Lottery Prize by Fraud.

(a) A person commits an offense if the person intentionally or knowingly:

(1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or

(2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

(b) In this section, "claim" includes an attempt to claim, without regard to whether the attempt is successful.

(c) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that:

(1) the amount claimed is greater than \$200 but not more than \$10,000, in which event the offense is a felony of the third degree;

(2) the amount claimed is greater than \$10,000, in which event the offense is a felony of the second degree; or

(3) the person has previously been convicted of an offense under Section 466.306, 466.307, 466.309, 466.310, or this section, in which event the offense is a felony of the third degree, unless the offense is designated as a felony of the second degree under Subdivision (2).

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.39, eff. Sept. 1, 1995.

Sec. 466.309. Tampering With Lottery Equipment.

(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, or other mechanical device used in a lottery game.

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

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.310. Certain Transfers of Claims.

(a) A person commits an offense if the person:

(1) induces another person to assign or transfer a right to claim a prize;

(2) offers for sale the right to claim a prize; or

(3) offers, for compensation, to claim the prize of another person.

(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 involved is greater than \$10,000, in which event the offense is a felony of the second degree.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug.

30, 1993.

Sec. 466.311. Reporting and Record Violations.

(a) A person commits an offense if the person, in a license application, in a book or record required to be maintained by this chapter or a rule adopted under this chapter, or in a report required to be submitted by this chapter or a rule adopted under this chapter:

(1) intentionally or knowingly makes a statement or entry

that the person knows to be false or misleading; or

(2) fails to maintain or make an entry the person knows is required to be maintained or made.

(b) A person commits an offense if the person knowingly refuses to produce for inspection by the director, executive director, commission, or state auditor a book, record, or document required to be maintained or made by this chapter or a rule adopted under this chapter.

(c) An offense under this section is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.40, eff. Sept. 1, 1995.

Sec. 466.312. False, Incorrect, or Deceptive Statement.

(a) A person commits an offense if the person intentionally or knowingly makes a material and false, incorrect, or deceptive statement to a person conducting an investigation or exercising discretion under this chapter or a rule adopted under this chapter.

(b) In this section, "statement" includes:

(1) a written or oral statement; and

(2) a sworn or unsworn statement.

(c) An offense under this section is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.41, eff. Sept. 1, 1995.

Sec. 466.313. Conspiracy.

(a) A person commits an offense of conspiracy if, with intent that an offense under this chapter be committed:

(1) the person agrees with one or more other persons that they or one or more of them engage in conduct that would constitute the offense; and

(2) one or more of the persons agreeing under Subdivision

(1) performs an overt act in pursuance of the agreement.

(b) An agreement constituting a conspiracy may be inferred from acts of the parties.

(c) It is no defense to prosecution for conspiracy under this section that:

(1) one or more of the coconspirators is not criminally responsible for the object offense;

(2) one or more of the coconspirators has been acquitted, so long as at least two coconspirators have not been acquitted;

(3) one or more of the coconspirators has not been prosecuted or convicted, has been convicted of a different offense, or is immune from prosecution;

(4) the actor belongs to a class of persons that by definition of the object offense is legally incapable of committing the object offense in an individual capacity; or

(5) the object offense was not actually committed.

(d) An offense under this section is one category lower than the most serious offense under this chapter that is the object of the conspiracy, and if the most serious offense under this chapter that is the object of the conspiracy is a felony of the third degree, the offense is a Class A misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.317. Prohibition Against Sale of Certain Lottery Tickets.

(a) Except as permitted by a compact entered into under Subsection (b), a person may not sell or offer for sale in this state any interest in a lottery of another state or state government or an Indian tribe or tribal government, including an

interest in an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of the interest.

(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 Class A misdemeanor.

Added by Acts 1995, 74th Leg., ch. 696, Sec. 2, eff. Sept. 1, 1995.

SUBCHAPTER H. REVENUE

Sec. 466.351. Delivery of Funds.

(a) Except as provided by Subsection (d), all revenue received from the sale of tickets and all money credited to the state lottery account from any other source shall be deposited in the state treasury through approved state depositories on the settlement day or days established by the director.

(b) The director may require sales agents to establish separate electronic funds transfer accounts for the purposes of depositing money from ticket sales, making payments to the division, and receiving payments from the division. The commission by rule shall establish the procedures for depositing money from ticket sales into electronic funds transfer accounts, as well as other procedures regarding the handling of money from ticket sales.

(c) The director may not permit a sales agent to make payments to the division or a lottery operator in cash.

(d) The director may provide for a sales agent to retain from the money received from the sale of tickets the amount of prizes paid by the agent or the agent's commission, if any, and may establish how often the agent will make settlement payments to the treasury.

(e) The director may provide for a sales agent to pay amounts received for the sale of tickets directly to an officer or employee of the division for immediate deposit in the state treasury.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.45, eff. Sept. 1, 1995.

Sec. 466.352. Reporting by Sales Agent; Records.

(a) The director may require a sales agent to file with the division reports of receipts and transactions relating to the sale of tickets in the form and containing the information that the director requires.

(b) Each sales agent shall maintain records adequate to establish the disposition of each ticket provided to the sales agent, the amounts of money received for the sale of those tickets, and any prizes awarded by the sales agent.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.353. Liability of Sales Agent.

(a) A sales agent is liable to the division for all tickets accepted or generated by the sales agent or any employee or agent of the sales agent, and tickets shall be deemed to have been purchased by the sales agent unless returned to the division within the time and manner prescribed by the division.

(b) Money received by a sales agent from the sales of tickets, less the amount retained for prizes paid by the sales agent or for the agent's commission, if any, together with any unsold tickets, shall be held in trust for the benefit of the state before delivery to a lottery operator or the division or electronic transfer to the state treasury, and the sales agent is liable to the division for the full amount of the money or unsold tickets so held. If the sales agent is not an individual, each officer, director, or owner of the sales agent is personally liable to the division for the full amount of the money or unsold tickets held in trust for the benefit of the state.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.354. Duties of Comptroller .

(a) The comptroller, in consultation with the director, shall establish procedures for the efficient implementation and operation of an electronic funds transfer system to meet the needs of the director under this chapter.

(b) The comptroller periodically shall file reports with the executive director providing information regarding the revenue credited to the state lottery account, the investments of the money in the account, and the distributions made from the account.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.46, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.2, eff. Sept. 1, 1997.

Sec. 466.355. State Lottery Account.

(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, 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.

(b) Money in the state lottery account may be used only for the following purposes and shall be distributed as follows:

(1) the payment of prizes to the holders of winning tickets;

(2) the payment of costs incurred in the operation and administration of the lottery, including any fees received by a lottery operator, provided that the costs incurred in a fiscal biennium may not exceed an amount equal to 12 percent of the gross revenue accruing from the sale of tickets in that biennium;

(3) the establishment of a pooled bond fund, lottery prize reserve fund, unclaimed prize fund, and prize payment account; and

(4) the balance, after creation of a reserve sufficient to pay the amounts needed or estimated to be needed under Subdivisions (1) through (3), to be transferred to the foundation school fund, on or before the 15th day of each month.

(c) Expired.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.47, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 592, Sec. 3.02, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 1997.

Sec. 466.357. Applicability of Constitutional Provisions.

For purposes of Article III, Section 49a, and Article VIII, Section 22, of the Texas Constitution:

(1) funds received from the operation of a lottery are not

revenue; and

(2) expenses of operating the lottery and paying prizes are not expenses of state government.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.358. Compensation of Sales Agent.

(a) The director and each lottery operator shall determine the compensation to be paid to sales agents for the sale of tickets as provided by this section. The compensation paid to a sales agent may not be an amount less than five percent of the retail price of the tickets sold plus, at the discretion of the director or lottery operator supervising the lottery game involved, an incentive bonus based on attainment of sales volume, the redemption of winning tickets, or other objectives specified by the director or lottery operator for each type of lottery.

(b) The division or a lottery operator may run sales agent incentive games for sales agents using the incentive bonus amount or other amounts allocated by the director as compensation for sales agents.

(c) The executive director shall deduct the amount of a delinquent tax or other money from the payments made as compensation to a sales agent who has been finally determined to be:

(1) delinquent in the payment of a tax or other money collected by the comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;

(2) delinquent in making child support payments administered or collected by the attorney general;

(3) in default on a loan made under Chapter 52, Education Code; or

(4) in default on a loan guaranteed under Chapter 57, Education Code.

(d) If a sales agent's compensation exceeds a delinquency under Subsection (c), the director shall pay the balance to the sales agent. The director shall transfer the amount deducted to the appropriate agency.

(e) The attorney general, comptroller, Texas Workforce

Commission, Texas Alcoholic Beverage Commission, Texas Higher Education Coordinating Board, and Texas Guaranteed Student Loan Corporation shall each provide the executive director with a report of persons who have been finally determined to be delinquent in the payment of a tax or other money collected by the agency. The commission shall adopt rules regarding the form and frequency of reports under this subsection.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 1104, Sec. 2, eff. Sept. 1, 1997.

Sec. 466.359. Compensation of Sales Agent for Purposes of Contractual Rental Payment.

If a sales agent's rental payments for premises are contractually computed in whole or in part on the basis of a percentage of the lessee's retail sales and if the computation of the lessee's rental payment is not explicitly defined to include sales of tickets in a state-operated lottery, the compensation received by the sales agent from the lottery is considered to be the net amount of the lessee's retail sales of tickets for the purpose of computing the rental payment.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

SUBCHAPTER I. PRIZES

Sec. 466.401. Ticket Validation; Drawings.

(a) The department of security shall supervise ticket validation and lottery drawings.

(b) If a lottery game involves a drawing, the drawing must be open to the public. An independent certified public accountant must witness the drawing.

(c) An employee of the division and the independent certified public accountant witnessing the drawing shall inspect any equipment used in the drawing. The equipment must be inspected immediately before and after the drawing. The drawing and inspections must be recorded on video and audio tape.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.402. Payment of Prizes Generally.

(a) The director may authorize prizes to be paid by warrants to be drawn on the state lottery account.

(b) The payment of a prize in an amount of \$600 or more may be made only by the director.

(c) The director may authorize a sales agent to pay a prize in an amount less than \$600 after performing procedures to validate the winning ticket as required by the director. A prize paid under this subsection is not required to be paid by warrant on the state lottery account.

(d) The state is discharged of all further liability on the payment of a prize under Section 466.403, 466.404, 466.406, or 466.407 or this section or under any additional procedures established by rule.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.403. Payment of Prize in Installments.

If the director determines that prize money is to be paid in installments, the comptroller shall invest funds from the state lottery account as necessary to ensure the payment of the installments. The investments may be in securities, annuities, or other instruments as determined by the comptroller.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.21, eff. Sept. 1, 1997.

Sec. 466.404. Payment of Prize to Multiple Winners.

(a) A specific prize as set forth by the prize structure of a specific lottery game may not be paid more than once. If the director determines that more than one claimant has been awarded a specific unpaid prize in a specific lottery game, each claimant is entitled only to an equal share of the prize.

(b) The director shall pay the cash equivalent of a prize other than prize money if more than one person is entitled to share the prize as provided by Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.405. Payment of Prize Awarded to Minor.

(a) If a minor is entitled to prize money on a winning ticket in an amount less than \$600, the director may make payment by delivery to an adult member of the minor's family, or to the minor's guardian, of a warrant payable to the order of the minor.

(b) If a minor is entitled to prize money on a winning ticket in an amount of \$600 or more, the director may direct payment to the minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or of the minor's guardian as custodian for the minor.

(c) The director shall pay the cash equivalent of a prize other than prize money if the person entitled to claim the prize is a minor. Payment of the cash equivalent of a prize other than prize money to a minor shall be made as provided by Subsections (a) and (b).

(d) A person designated to receive payment on behalf of a minor has the powers and duties of a custodian under Chapter 141, Property Code.

(e) In this section, "adult," "bank," "custodian," "guardian," "member of a minor's family," and "minor" have the meanings assigned by Section 141.002, Property Code.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.406. Right to Prize not Assignable.

(a) Except as otherwise provided by this section, the right of any person to a prize is not assignable.

(b) Payment of a prize may be made to the estate of a deceased prizewinner.

(c) A prize to which a winner is otherwise entitled may be paid to any person under an appropriate judicial order.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.407. Deductions From Prizes.

(a) The executive director shall deduct the amount of a delinquent tax or other money from the winnings of a person who has been finally determined to be:

(1) delinquent in the payment of a tax or other money collected by the comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;

(2) delinquent in making child support payments administered

or collected by the attorney general;

(3) delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

(4) in default on a loan made under Chapter 52, Education Code; or

(5) in default on a loan guaranteed under Chapter 57, Education Code.

(b) If a person's winnings exceed a delinquency under Subsection (a), the director shall pay the balance to the person. The director shall transfer the amount deducted to the appropriate agency.

(c) The attorney general, comptroller, Texas Workforce Commission, Texas Alcoholic Beverage Commission, Texas Department of Human Services, Texas Higher Education Coordinating Board, and Texas Guaranteed Student Loan Corporation shall each provide the executive director with a report of persons who have been finally determined to be delinquent in the payment of a tax or other money collected by the agency. The commission shall adopt rules regarding the form and frequency of reports under this subsection.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.48, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 135, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1104, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1153, Sec. 3.04(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.22, eff. Sept. 1, 1997.

Sec. 466.4075. Deductions of Child Support From Certain Lottery Winnings.

Text of section as added by Acts 1997, 75th Leg., ch. 135, Sec. 2

(a) This section applies only to a prize that is required to be awarded by the director under Section 466.402(b).

(b) The executive director shall deduct an amount a court has ordered to pay as delinquent from a person's winnings if the executive director has been provided with a certified copy of a court order and a notice of child support lien for delinquent child support created under Subchapter G, Chapter 157, Family Code.

(c) If a person's winnings exceed the amount deducted under

Subsection (b) and any other section of this chapter allowing a deduction from the winnings of a lottery winner, the executive director shall pay the balance to the person. The executive director shall transfer the money deducted under Subsection (b) to the appropriate person.

(d) The commission shall adopt rules necessary to administer this section.

Added by Acts 1997, 75th Leg., ch. 135, Sec. 2, eff. Sept.1, 1997.

For text of sections as added by Acts 1997, 75th Leg., ch 1104, Sec. 1, see Sec. 466.4075, post

Sec. 466.4075. Deductions of Child Support From Certain Lottery Winnings.

Text of section as added by Acts 1997, 75th Leg., ch. 1104, Sec. 1

(a) This section applies only to a prize that is required to be paid in periodic installments and is awarded by the director under Section 466.402(b).

(b) The executive director shall deduct an amount a court has ordered a person to pay as child support from a person's periodic installment winnings if the executive director has been provided with a certified copy of a court order or a writ of withholding issued under Chapter 158, Family Code, or notice of a child support lien created under Subchapter G, Chapter 157, Family Code.

(c) The court order, writ of withholding, or notice of a child support lien must direct child support to be paid in the manner in which the periodic installment prize is paid. The executive director is not required to receive the court order, the writ of withholding, or notice of child support lien until the executive director determines there is a periodic installment prize to which the winner is entitled.

(d) If a person's winnings exceed the amount deducted under Subsection (b) and Section 466.407, the executive director shall pay the balance to the person. The executive director shall transfer the money deducted under Subsection (b) to the clerk of the court that issued the order for placement in the registry of the court.

(e) The commission shall adopt rules under this section that:

(1) allow a person with a court order under Chapter 157 or 158, Family Code, to file copies of the order with the commission; and

(2) describe the procedures used by the commission to compare the list of persons winning periodic installment prizes under Section 466.402(b) with a list of obligors compiled from orders filed under Subdivision (1) and to make the deductions required under this section.

Added by Acts 1997, 75th Leg., ch. 1104, Sec. 1, eff. Sept. 1, 1997.

For text of section as added by Acts 1997, 75th Leg., ch. 135, Sec. 2, see Sec. 466.4075, ante

Sec. 466.408. Unclaimed Prizes.

(a) The division shall retain an unclaimed prize on a winning ticket for payment or delivery to the person entitled to the prize for 180 days after the date on which the winner was selected.

(b) If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be used to provide additional money to the state lottery account for the purposes prescribed by Section 466.355(b)(1).

(c) If a claim is not made for a prize other than prize money on or before the 180th day after the date on which the winner was selected, the prize shall revert to the division for use in subsequent games.

(d) A ticket holder forfeits any claim or entitlement to a prize after the expiration of the 180th day after the date on which the prizewinner was selected.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993.

Sec. 466.409. Treatment of Prize Payable on Ticket Purchased by Ineligible Person.

If an individual listed in Section 466.254 purchases a ticket or claims or otherwise attempts to collect or receive a lottery prize or a share of a lottery prize or an individual younger than 18 years of age directly purchases a ticket, the individual is not eligible to receive a prize or share of a prize, and the prize or share of a prize otherwise payable on the ticket is treated as an unclaimed prize as provided by Section 466.408.

Renumbered from Sec. 466.253 and amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.31, eff. Sept. 1, 1995

CHAPTER 481. TEXAS DEPARTMENT OF ECONOMIC DEVELOPMENT

SUBCHAPTER H. BUSINESS DEVELOPMENT – PERMIT ASSISTANCE

Sec. 481.121. Definitions.

In this subchapter: (1) "Applicant" means a person acting for himself or authorized to act on behalf of another person to obtain a permit. (2) "Office" means the department's business permit office. (3) "Permit" means any license, certificate, registration, permit, or other form of authorization required by law or by state agency rules to be obtained by a person in order to engage in a particular business but does not include a permit or license issued in connection with any form of gaming or gambling.

SUBTITLE G. CORRECTIONS

CHAPTER 500. MISCELLANEOUS DISCIPLINARY MATTERS

Sec. 500.003. Gambling Prohibited.

Gambling is not permitted at any place in a facility operated by or under contract with the department where inmates are housed or worked. An employee of the department who engages in gambling or knowingly permits gambling at any place where inmates are housed or worked is subject to immediate dismissal. Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Renumbered from Sec. 499.003 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.067, eff. Sept. 1, 1995.

TITLE 10. GENERAL GOVERNMENT

SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE

CHAPTER 2005. PERMIT PROCESSING

Sec. 2005.002. Exceptions.

This chapter does not apply to a permit: (1) for which an agency's median time during the preceding calendar year for processing a permit application from receipt of the initial application to the final permit decision did not exceed seven days; (2) issued in connection with any form of gaming or gambling; or (3) issued under the Alcoholic Beverage Code. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

PENAL CODE

TITLE 10. OFFENSES AGAINST PUBLIC HEALTH, SAFETY AND MORALS

CHAPTER 47. GAMBLING

Sec. 47.01. Definitions.

In this chapter:

(1) "Bet" means an agreement to win or lose something of value solely or partially by chance. A bet does not include:

(A) contracts of indemnity or guaranty, or life, health, property, or accident insurance;

(B) an offer of a prize, award, or compensation to the actual contestants in a bona fide contest for the determination of skill, speed, strength, or endurance or to the owners of animals, vehicles, watercraft, or aircraft entered in a contest; or

(C) an offer of merchandise, with a value not greater than \$25, made by the proprietor of a bona fide carnival contest conducted at a carnival sponsored by a nonprofit religious, fraternal, school, law enforcement, youth, agricultural, or civic group, including any nonprofit agricultural or civic group incorporated by the state before 1955, if the person to receive the merchandise from the proprietor is the person who performs the carnival contest.

(2) "Bookmaking" means:

(A) to receive and record or to forward more than five bets or offers to bet in a period of 24 hours;

(B) to receive and record or to forward bets or offers to bet totaling more than \$1,000 in a period of 24 hours; or

(C) a scheme by three or more persons to receive, record, or forward a bet or an offer to bet.

(3) "Gambling place" means any real estate, building, room, tent, vehicle, boat, or other property whatsoever, one of the uses of which is the making or settling of bets, bookmaking, or the conducting of a lottery or the playing of gambling devices.

(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:

device

(A) includes, but is not limited to, gambling

versions of bingo, keno, blackjack, lottery, roulette, video poker, 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 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.

(5) "Altered gambling equipment" means any contrivance that has been altered in some manner, including, but not limited to, shaved dice, loaded dice, magnetic dice, mirror rings, electronic sensors, shaved cards, marked cards, and any other equipment altered or designed to enhance the actor's chances of winning.

(6) "Gambling paraphernalia" means any book, instrument, or apparatus by means of which bets have been or may be recorded or registered; any record, ticket, certificate, bill, slip, token, writing, scratch sheet, or other means of carrying on bookmaking, wagering pools, lotteries, numbers, policy, or similar games.

(7) "Lottery" means any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win anything of value, whether such scheme or procedure is called a pool, lottery, raffle, gift, gift enterprise, sale, policy game, or some other name.

(8) "Private place" means a place to which the public does not have access, and excludes, among other places, streets, highways, restaurants, taverns, nightclubs, schools, hospitals, and the common areas of apartment houses, hotels, motels, office buildings, transportation facilities, and shops.

(9) "Thing of value" means any benefit, but does not include an unrecorded and immediate right of replay not exchangeable for value.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1987, 70th Leg., ch. 313, Secs. 1, 2, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 396, Sec. 1, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 774, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 318, Sec. 19, eff. Sept. 1, 1995.

Sec. 47.02. Gambling.

(a) A person commits an offense if he:

(1) makes a bet on the partial or final result of a game or contest or on the performance of a participant in a game or contest;

(2) makes a bet on the result of any political nomination, appointment, or election or on the degree of success of any nominee, appointee, or candidate; or

(3) plays and bets for money or other thing of value at any game played with cards, dice, balls, or any other gambling device.

(b) It is a defense to prosecution under this section that:

(1) the actor engaged in gambling in a private place;

(2) no person received any economic benefit other than personal winnings; and

(3) except for the advantage of skill or luck, the risks of losing and the chances of winning were the same for all participants.

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

(1) was permitted under the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes);

(2) was permitted under the Charitable Raffle Enabling Act (Article 179f, Revised Statutes);

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

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

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

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

(e) It is a defense to prosecution under this section that a person played for something of value other than money using an electronic, electromechanical, or mechanical contrivance excluded from the definition of "gambling device" under Section 47.01(4)(B).

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1981, 67th Leg., 1st C.S., p. 101, ch. 11, Sec. 43, eff. Nov. 10, 1981; Acts 1989, 71st Leg., ch. 957, Sec. 2, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., 1st C.S., ch. 6, Sec. 3; Acts 1993, 73rd Leg., ch. 107, Sec. 4.04, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 774, Sec. 2, eff. Aug. 30, 1993. Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.53, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 20, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 931, Sec. 79, eff. June 16, 1995; Acts 1997, 75th Leg., ch. 1256, Sec. 124, eff. Sept. 1, 1997.

Sec. 47.03. Gambling Promotion.

(a) A person commits an offense if he intentionally or knowingly does any of the following acts:

(1) operates or participates in the earnings of a gambling place;

(2) engages in bookmaking;

(3) for gain, becomes a custodian of anything of value bet or offered to be bet;

(4) sells chances on the partial or final result of or on the margin of victory in any game or contest or on the performance of any participant in any game or contest or on the result of any political nomination, appointment, or election or on the degree of success of any nominee, appointee, or candidate; or

(5) for gain, sets up or promotes any lottery or sells or offers to sell or knowingly possesses for transfer, or transfers any card, stub, ticket, check, or other device designed to serve as evidence of participation in any lottery.

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

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1987, 70th Leg., ch. 313, Sec. 3, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 47.04. Keeping a Gambling Place.

(a) A person commits an offense if he knowingly uses or permits another to use as a gambling place any real estate, building, room, tent, vehicle, boat, or other property whatsoever owned by him or under his control, or rents or lets any such property with a view or expectation that it be so used.

(b) It is an affirmative defense to prosecution under this section that:

- (1) the gambling occurred in a private place;
- (2) no person received any economic benefit other than personal winnings; and
- (3) except for the advantage of skill or luck, the risks of losing and the chances of winning were the same for all participants.

(c) An offense under this section is a Class A misdemeanor.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., p. 667, ch. 251, Sec. 1, eff. Aug. 29, 1977. Acts 1989, 71st Leg., ch. 1030, Sec. 1, eff. Sept. 1, 1989. Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 47.05. Communicating Gambling Information.

(a) A person commits an offense if, with the intent to further gambling, he knowingly communicates information as to bets, betting odds, or changes in betting odds or he knowingly provides, installs, or maintains equipment for the transmission or receipt of such information.

(b) It is an exception to the application of Subsection (a) that the information communicated is intended for use in placing a lawful wager under Article 11, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), and is not communicated in violation of Section 14.01 of that Act.

(c) An offense under this section is a Class A misdemeanor.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 47.06. Possession of Gambling Device, Equipment, or Paraphernalia.

(a) A person commits an offense if, with the intent to further gambling, he knowingly owns, manufactures, transfers, or possesses any gambling device that he knows is designed for gambling purposes or any equipment that he knows is designed as a subassembly or essential part of a gambling device.

(b) A person commits an offense if, with the intent to further gambling, he knowingly owns, manufactures, transfers commercially, or possesses any altered gambling equipment that he knows is designed for gambling purposes or any equipment that he knows is designed as a subassembly or essential part of such device.

(c) A person commits an offense if, with the intent to further gambling, the person knowingly owns, manufactures, transfers commercially, or possesses gambling paraphernalia.

(d) It is a defense to prosecution under Subsections (a) and (c) that:

(1) the device, equipment, or paraphernalia is used for or is intended for use in gambling that is to occur entirely in a private place;

(2) a person involved in the gambling does not receive any economic benefit other than personal winnings; and

(3) except for the advantage of skill or luck, the chance of winning is the same for all participants.

(e) An offense under this section is a Class A misdemeanor.

(f) It is a defense to prosecution under Subsection (a) or (c) that the person owned, manufactured, transferred, or possessed the gambling device, equipment, or paraphernalia for the sole purpose of shipping it to another jurisdiction where the possession or use of the device, equipment, or paraphernalia was legal.

(g) A district or county attorney is not required to have a search warrant or subpoena to inspect a gambling device or gambling equipment or paraphernalia on an ocean-going vessel that enters the territorial waters of this state to call at a port in this state.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., p. 668, ch. 251, Sec. 2, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1865, ch. 741, Sec. 1, eff. Aug. 29, 1977; Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(48), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 458, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1030, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 44, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 315, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 6, Sec. 4; Acts 1993, 73rd Leg., ch. 107, Sec. 4.05, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 284, Sec. 30, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 47.07. Evidence.

In any prosecution under this chapter in which it is relevant to prove the occurrence of a sporting event, a published report of its occurrence in a daily newspaper, magazine, or other periodically printed publication of general circulation shall be admissible in evidence and is prima facie evidence that the event occurred.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Renumbered from Sec. 47.08 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 47.08. Testimonial Immunity.

(a) A party to an offense under this chapter may be required to furnish evidence or testify about the offense.

(b) A party to an offense under this chapter may not be prosecuted for any offense about which he is required to furnish evidence or testify, and the evidence and testimony may not be used against the party in any adjudicatory proceeding except a prosecution for aggravated perjury.

(c) For purposes of this section, "adjudicatory proceeding"

means a proceeding before a court or any other agency of government in which the legal rights, powers, duties, or privileges of specified parties are determined.

(d) A conviction under this chapter may be had upon the uncorroborated testimony of a party to the offense.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.
Renumbered from Sec. 47.09 by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 47.09. Other Defenses.

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

(1) was authorized under:

(A) the Bingo Enabling Act (Article 179d,
Vernon's Texas
Civil Statutes);

(B) the Texas Racing Act (Article 179e, Vernon's
Texas
Civil Statutes); or

(C) the Charitable Raffle Enabling Act (Article
179f,
Revised Statutes);

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

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

(A) Chapter 466, Government Code;

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

(C) the Texas Lottery Commission; or

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

(b) It is an affirmative defense to prosecution under Sections 47.04, 47.06(a), and 47.06(c) that the gambling device, equipment, or paraphernalia is aboard an ocean-going vessel that enters the territorial waters of this state to call at a port in this state if:

(1) before the vessel enters the territorial waters of this state, the district attorney or, if there is no district attorney, the county attorney for the county in which the port is located receives notice of the existence of the device, equipment, or paraphernalia on board the vessel and of the anticipated dates on which the vessel will enter and leave the territorial waters of this state;

(2) except as permitted by Subdivision (3), at all times while the vessel is in the territorial waters of this state:

(A) the portion of the vessel in which the device, equipment, or paraphernalia is located is locked or otherwise physically secured in a manner that makes the area inaccessible to anyone other than the master and crew of the vessel; or

(B) all devices, equipment, or paraphernalia are:
(i) covered in a manner that prevents the use or viewing of the device, equipment, or paraphernalia and that allows only the master or crew of the vessel to uncover the device, equipment, or paraphernalia; and

(ii) disabled, electronically or by another method, from a remote and secured area of the vessel in a manner that allows only the master or crew of the vessel to remove any disabling device;

(3) at all times while the vessel is in the territorial waters of this state, no person other than the master and crew of the vessel is permitted, except for the purposes of inspecting or repairing the device, equipment, or paraphernalia, to:

(A) enter or view the portion of the vessel in which the device, equipment, or paraphernalia is locked or secured under Subdivision (2)(A); or

(B) uncover the device, equipment, or paraphernalia or remove any disabling device located on the vessel; and

(4) the device, equipment, or paraphernalia is not used for gambling or other gaming purposes while the vessel is in the territorial waters of this state.

Added by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.54, eff. Sept.

1, 1995; Acts 1997, 75th Leg., ch. 111, Sec. 1, eff. May 16, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 55, eff. June 19, 1997.

Sec. 47.10. American Documentation of Vessel Required.

If 18 U.S.C. Section 1082 is repealed, the affirmative defenses provided by Section 47.09(b) apply only if the vessel is documented under the laws of the United States.

Added by Acts 1989, 71st Leg., ch. 1030, Sec. 4, eff. Sept. 1, 1989. Renumbered from Sec. 47.12 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(27), eff. Sept. 6, 1990. Renumbered from Sec. 47.13 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994

TITLE 11. ORGANIZED CRIME

CHAPTER 71. ORGANIZED CRIME

Sec. 71.02. Engaging in Organized Criminal Activity.

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal streetgang, he commits or conspires to commit one or more of the following: (1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle; (2) any gambling offense punishable as a Class A misdemeanor; (3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution; (4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons; (5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception; (6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same; (7) any unlawful employment, authorization, or inducing of a child younger than 17 years of age in an obscene sexual performance; (8) any felony offense under Chapter 32, Penal Code; (9) any offense under Chapter 36, Penal Code; (10) any offense under Chapter 34, Penal Code; or (11) any offense under Section 37.11(a), Penal Code. Text of subsection (b) as amended by Acts 1993, 73rd Leg., ch. 761, Sec. 3 (b) Except as provided in Subsection (c) of this section, an offense under this section is one category higher than the most serious offense listed in Subdivisions (1) through (10) of Subsection (a) of this section that was committed, and if the most serious offense is a Class A misdemeanor, the offense is a felony of the third degree, except that if the most serious offense is a felony of the first degree, the offense is a felony of the first degree. Text of subsection (b) as amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01 (b) Except as provided in Subsections (c) and (d), an offense under this section is one category higher than the most serious offense listed in Subsection (a) that was committed, and if the most serious offense is a Class A misdemeanor, the offense is a state jail felony, except that if the most serious offense is a felony of the first degree, the offense is a felony of the first degree. Text of subsection (c) as amended by Acts 1993, 73rd Leg., ch. 761, Sec. 3 (c) Conspiring to commit an offense under this section is of the same degree as the most serious offense listed in Subdivisions (1) through (10) of Subsection (a) of this section that the person conspired to commit. Text of subsection (c) as amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01 (c) Conspiring to commit an offense under this section is of the same degree as the most serious offense listed in Subsection (a) that the person conspired to commit. (d) At the punishment stage of a trial, the defendant may raise the issue as to whether in voluntary and complete renunciation of the offense he withdrew from

the combination before commission of an offense listed in Subsection (a) and made substantial effort to prevent the commission of the offense. If the defendant proves the issue in the affirmative by a preponderance of the evidence the offense is the same category of offense as the most serious offense listed in Subsection (a) that is committed, unless the defendant is convicted of conspiring to commit the offense, in which event the offense is one category lower than the most serious offense that the defendant conspired to commit. Added by Acts 1977, 65th Leg., p. 922, ch. 346, Sec. 1, eff. June 10, 1977. Amended by Acts 1981, 67th Leg., p. 2373, ch. 587, Secs. 1 to 3, eff. Sept. 1, 1981; Acts 1989, 71st Leg., ch. 782, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 555, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 761, Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 318, Sec. 24, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 189, Sec. 9, eff. May 21, 1997.

CODE OF CRIMINAL PROCEDURE

PART I – CODE OF CRIMINAL PROCEDURE OF 1965

SEARCH WARRANTS

CHAPTER EIGHTEEN – SEARCH WARRANTS

Art. 18.02. [305] [356] [344] Grounds for issuance. A search warrant may be issued to search for and seize: (1) property acquired by theft or in any other manner which makes its acquisition a penal offense; (2) property specially designed, made, or adapted for or commonly used in the commission of an offense; (3) arms and munitions kept or prepared for the purposes of insurrection or riot; (4) weapons prohibited by the Penal Code; (5) gambling devices or equipment, altered gambling equipment, or gambling paraphernalia; (6) obscene materials kept or prepared for commercial distribution or exhibition, subject to the additional rules set forth by law; (7) drugs kept, prepared, or manufactured in violation of the laws of this state; (8) any property the possession of which is prohibited by law; (9) implements or instruments used in the commission of a crime; (10) property or items, except the personal writings by the accused, constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense; (11) persons; or (12) contraband subject to forfeiture under Chapter 59 of this code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 982, ch. 399, Sec. 2(E), eff. Jan. 1, 1974; Acts 1977, 65th Leg., p. 640, ch. 237, Sec. 2, eff. May 25, 1977. Amended by Acts 1981, 67th Leg., p. 2790, ch. 755, Sec. 5, eff. Sept. 1, 1981; Acts 1989, 71st Leg., 1st C.S., ch. 12, Sec. 3, eff. Oct. 18, 1989.

Art. 18.18. Disposition of gambling paraphernalia, prohibited weapon, criminal instrument, and other contraband. (a) Following the final conviction of a person for possession of a gambling device or equipment, altered gambling equipment, or gambling paraphernalia, for an offense involving a criminal instrument, for an offense involving an obscene device or material, the court entering the judgment of conviction shall order that the machine, device, gambling equipment or gambling paraphernalia, instrument, obscene device or material be destroyed or forfeited to the state. Not later than the 30th day after the final conviction of a person for an offense involving a prohibited weapon, the court entering the judgment of conviction on its own motion, on the motion of the prosecuting attorney in the case, or on the motion of the law enforcement agency initiating the complaint on notice to the prosecuting attorney in the case if the prosecutor fails to move for the order shall order that the prohibited weapon be destroyed or forfeited to the law enforcement agency that initiated the complaint. If the court fails to enter the order within the time required by this subsection, any magistrate in the county in which the offense occurred may enter the order. Following the final conviction of a person for an offense involving dog fighting, the court entering the judgment of conviction shall order that any dog-fighting equipment be destroyed or forfeited to the state. Destruction of dogs, if necessary, must be carried out by a veterinarian licensed in this state or, if one is not available, by trained personnel of a humane society or an animal shelter. If forfeited, the court shall order the contraband delivered to the state, any political subdivision of the state, or to any state institution or agency. If gambling proceeds were seized, the court shall order them forfeited to the state and shall transmit them to the grand jury of the county in which they were seized for use in investigating alleged violations of the Penal Code, or to the state, any political subdivision of the state, or to any state institution or agency. (b) If

there is no prosecution or conviction following seizure, the magistrate to whom the return was made shall notify in writing the person found in possession of the alleged gambling device or equipment, altered gambling equipment or gambling paraphernalia, gambling proceeds, prohibited weapon, obscene device or material, criminal instrument, or dog-fighting equipment to show cause why the property seized should not be destroyed or the proceeds forfeited. The magistrate, on the motion of the law enforcement agency seizing a prohibited weapon, shall order the weapon destroyed or forfeited to the law enforcement agency seizing the weapon, unless a person shows cause as to why the prohibited weapon should not be destroyed or forfeited. A law enforcement agency shall make a motion under this section in a timely manner after the time at which the agency is informed in writing by the attorney representing the state that no prosecution will arise from the seizure. (c) The magistrate shall include in the notice a detailed description of the property seized and the total amount of alleged gambling proceeds; the name of the person found in possession; the address where the property or proceeds were seized; and the date and time of the seizure. (d) The magistrate shall send the notice by registered or certified mail, return receipt requested, to the person found in possession at the address where the property or proceeds were seized. If no one was found in possession, or the possessor's address is unknown, the magistrate shall post the notice on the courthouse door. (e) Any person interested in the alleged gambling device or equipment, altered gambling equipment or gambling paraphernalia, gambling proceeds, prohibited weapon, obscene device or material, criminal instrument, or dog-fighting equipment seized must appear before the magistrate on the 20th day following the date the notice was mailed or posted. Failure to timely appear forfeits any interest the person may have in the property or proceeds seized, and no person after failing to timely appear may contest destruction or forfeiture. (f) If a person timely appears to show cause why the property or proceeds should not be destroyed or forfeited, the magistrate shall conduct a hearing on the issue and determine the nature of property or proceeds and the person's interest therein. Unless the person proves by a preponderance of the evidence that the property or proceeds is not gambling equipment, altered gambling equipment, gambling paraphernalia, gambling device, gambling proceeds, prohibited weapon, criminal instrument, or dog-fighting equipment and that he is entitled to possession, the magistrate shall dispose of the property or proceeds in accordance with Paragraph (a) of this article. (g) For purposes of this article: (1) "criminal instrument" has the meaning defined in the Penal Code; (2) "gambling device or equipment, altered gambling equipment or gambling paraphernalia" has the meaning defined in the Penal Code; (3) "prohibited weapon" has the meaning defined in the Penal Code; and (4) "dog-fighting equipment" means: (A) equipment used for training or handling a fighting dog, including a harness, treadmill, cage, decoy, pen, house for keeping a fighting dog, feeding apparatus, or training pen; (B) equipment used for transporting a fighting dog, including any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog; (C) equipment used to promote or advertise an exhibition of dogfighting, including a printing press or similar equipment, paper, ink, or photography equipment; or (D) a dog trained, being trained, or intended to be used to fight with another dog. (5) [Blank]. (6) "obscene device or material" means a device or material introduced into evidence and thereafter found obscene by virtue of a final judgment after all appellate remedies have been exhausted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 986, ch. 399, Sec. 2(E), eff. Jan. 1, 1974. Subsecs. (a), (b), (e), (f), (g) amended by Acts 1983, 68th Leg., pp. 1611, ch. 305, Secs. 2, 3, eff. Sept. 1, 1983. Amended by Acts 1983, 68th Leg., p. 1899, ch. 351, Sec. 1, eff. Sept. 1, 1983; Subsec. (a) amended by Acts 1987, 70th Leg., ch. 980, Sec. 1, eff. Sept. 1, 1987; Subsecs. (g)(4), (g)(6) amended by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(6), eff. Sept. 1, 1987; Subsecs. (a), (b) amended by Acts 1993, 73rd Leg., ch. 157, Sec. 2, eff. Sept. 1, 1993.

TITLE 2.

CHAPTER 102. COSTS PAID BY DEFENDANTS

SUBCHAPTER A. GENERAL COSTS

Art. 102.008. [1061-1063, 1068] [1168, 1170, 1171, 1177][1123-1130] Fees for Services of Prosecutors. (a) Except as provided by Subsection (b), a defendant convicted of a misdemeanor or a gambling offense shall pay a fee of \$25 for the trying of the case by the district or county attorney. If the court appoints an

attorney to represent the state in the absence of the district or county attorney, the appointed attorney is entitled to the fee otherwise due. (b) No fee for the trying of a case may be charged against a defendant prosecuted in a justice court for violation of a penal statute or of the Uniform Act Regulating Traffic on Highways. (c) If two or more defendants are tried jointly, only one fee may be charged under this article. If the defendants sever and are tried separately, each defendant shall pay the fee. (d) A defendant is liable for fees imposed by Subsection (a) if the defendant is convicted of an offense and: (1) the defendant does not appeal the conviction; or (2) the conviction is affirmed on appeal. Added by Acts 1985, 69th Leg., ch. 269, Sec. 1, eff. Sept. 1, 1985. Sec. (a) amended by Acts 1989, 71st Leg., ch. 1080, Sec. 5, eff. Sept. 1, 1989.