

BILL ANALYSIS

Senate Research Center
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S.B. 2104
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2104 allows congressionally chartered veterans' organizations, defined in the bill as the Veterans of Foreign Wars and the American Legion, to operate video lottery machines and terminals in Texas. The bill exempts all transactions and shipments from laws which prohibit the transportation of gambling devices. The Texas Lottery Commission is given oversight and rulemaking authority for the operation of video lottery games. The Texas Lottery Commission must submit an annual report detailing the revenue obtained from the operation of video lottery terminals to the governor's office, the comptroller, and the legislature. The attorney general is given authority to investigate fraud or abuses.

A percentage of the revenue is to be given to the state and is dedicated to a veterans mental health assistance account for the purpose of providing mental health services or other assistance for veterans identified by the Texas Veterans Commission. The veterans organizations can also use revenues to pay for the costs of the operations and the activities of the organization.

As proposed, S.B. 2104 relates to the operation of video lottery games by licensed operators for certain veterans organizations and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Lottery Commission in SECTION 1 (Sections 2004.052, 2004.102-2004.105, and 2004.151, Occupations Code) and SECTION 7 of this bill.

Rulemaking authority previously granted to the Texas Lottery Commission is modified in SECTION 3 (Section 466.024, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 13, Occupations Code, by adding Chapter 2004, as follows:

CHAPTER 2004. VIDEO LOTTERY TO SUPPORT VETERANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2004.001. DEFINITIONS. Defines "commission," "qualified veterans organization," "video lottery," "video lottery distributor," "video lottery game," and "video lottery vendor."

Sec. 2004.002. APPLICABILITY OF OTHER LAW. Provides that all shipments of video lottery machines or other gaming devices into, out of, or within this state authorized under this chapter are legal shipments of the devices and are exempt from the provisions of 15 U.S.C. Sections 1171-1178 prohibiting the transportation of gambling devices.

[Reserves Sections 2004.003-2004.050 for expansion.]

SUBCHAPTER B. ADMINISTRATION

Sec. 2004.051. POWERS AND DUTIES OF COMMISSION AND EXECUTIVE DIRECTOR. (a) Provides that the Texas Lottery Commission (commission) and the executive director of the commission (executive director) have broad authority and are required to exercise strict control and close supervision over video lottery games operated in this state to promote and ensure the integrity, security, honesty, and fairness of video lottery.

(b) Authorizes the executive director to contract with or employ a person to perform a function, activity, or service in connection with video lottery as prescribed by the executive director.

Sec. 2004.052. RULES. Requires the commission to adopt rules necessary to administer this chapter.

Sec. 2004.053. ANNUAL REPORT. Requires the commission to file an annual report with the governor, the comptroller of public accounts (comptroller), and the legislature regarding the collection and disposition of video lottery revenue for the state fiscal year preceding the report. Requires that the report be in the form and reported in the time provided by the General Appropriations Act.

Sec. 2004.054. INVESTIGATIONS. Authorizes the attorney general, in addition to other state or local officials, to investigate a violation or alleged violation of this chapter by any person, or the penal laws of this state in connection with the regulation of video lottery by the commission or its personnel or the conduct of video lottery or related activity by a qualified veterans organization, video lottery vendor, or video lottery distributor.

[Reserves Sections 2004.055-2004.100 for expansion.]

SUBCHAPTER C. LICENSE AND CONTRACT REQUIREMENTS

Sec. 2004.101. LICENSE REQUIREMENTS. (a) Prohibits a person from conducting video lottery in this state unless the person is a video lottery vendor that conducts video lottery games on the premises of a qualified veterans organization.

(b) Prohibits a person from providing video lottery equipment or services for use in this state unless the person holds a license as a video lottery distributor.

(c) Prohibits a person from displaying a video lottery machine for operation in this state unless the machine is registered as required by this chapter.

Sec. 2004.102. VIDEO LOTTERY VENDOR LICENSE. (a) Requires the commission, on application, to issue a video lottery vendor license to a person who is not ineligible to hold the license under another provision of this chapter or a commission rule.

(b) Requires the commission by rule to establish the minimum qualifications for a video lottery vendor license to promote a competitive market for video lottery games, consistent with the health and safety of the public.

Sec. 2004.103. VIDEO LOTTERY DISTRIBUTOR LICENSE. (a) Requires the commission to issue a video lottery distributor license to an eligible person with the resources and experience required to provide video lottery equipment and services to video lottery vendors conducting video lottery under this chapter.

(b) Requires the commission by rule to establish the minimum qualifications for a video lottery distributor license to promote a competitive market for video lottery goods and services and the availability of reliable video lottery equipment and services, consistent with the health and safety of the public.

Sec. 2004.104. VIDEO LOTTERY MACHINE REGISTRATION. Requires the commission by rule to establish procedures for a qualified veterans organization or a

video lottery vendor to register each video lottery machine that the organization or vendor displays for operation in this state.

Sec. 2004.105. **DISCIPLINARY ACTION.** (a) Authorizes the commission to refuse to issue a license or revoke, suspend, or refuse to renew a license or reprimand a license holder for a violation of this chapter, other state law, or a rule of the commission.

(b) Entitles the license holder or applicant, if the commission proposes to take action against a license holder or applicant under Subsection (a), to a notice and a hearing.

(c) Authorizes the commission to place on probation subject to reasonable conditions a person whose license is suspended.

(d) Authorizes the commission to summarily suspend a license issued under this chapter in the manner prescribed by Section 466.160 (Summary Suspension of License), Government Code, if the commission determines that the action is necessary to maintain the integrity, security, or fairness of video lottery.

(e) Requires the commission by rule to develop a system for monitoring a license holder's compliance with this chapter.

[Reserves Sections 2004.106-2004.150 for expansion.]

SUBCHAPTER D. REVENUE

Sec. 2004.151. **STATE SHARE OF REVENUE FROM VIDEO LOTTERY.** (a) Requires a qualified veterans organization, at the times and in the manner prescribed by commission rule, to pay to the commission a percentage determined by the commission of the net terminal income derived from video lottery games operated by a video lottery vendor for the organization.

(b) Provides that the remainder of the net terminal income is the property of the qualified veterans organization. Authorizes the organization to use that income to support the organization, its programs, and any auxiliary organizations; or to cover costs associated with the conduct of video lottery, including salaries for employees of the organization who conduct video lottery, and costs for equipment and services provided by a video lottery vendor or video lottery distributor.

Sec. 2004.152. **STATE VIDEO LOTTERY ACCOUNT; VETERANS MENTAL HEALTH ASSISTANCE ACCOUNT.** (a) Provides that the state video lottery account is a special account in the general revenue fund. Provides that the account consists of all revenue received by the commission from video lottery, fees received under this chapter, and all money credited to the account from any other fund or source under law.

(b) Authorizes money in the state video lottery account to be used to pay the costs incurred by the commission in the operation and administration of video lottery. Requires that the remainder of the account be deposited to the credit of the veterans mental health assistance account, a special account in the general revenue fund. Authorizes money in the account to only be used to provide mental health services or other assistance for veterans identified by the Texas Veterans Commission (TVC), in consultation with the advisory committee created under Section 434.020, Government Code, and other agencies as required under that section.

[Reserves Sections 2004.153-2004.200 for expansion.]

SUBCHAPTER E. OFFENSES; PENALTIES

Sec. 2004.201. **MANIPULATION OR TAMPERING.** (a) Provides that a person commits an offense if the person intentionally or knowingly manipulates the outcome of

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

(b) Provides that an offense under this section is a felony of the third degree.

Sec. 2004.202. SALE OF VIDEO LOTTERY GAME TO PERSON YOUNGER THAN 18 YEARS OF AGE. (a) Provides that a person commits an offense if the person intentionally or knowingly sells or offers to sell a play of a video lottery game to an individual the person knows is younger than 18 years of age or permits the individual to purchase a play of a video lottery game; or pays money or issues a video credit slip or other winnings for a play of a video lottery game to an individual the person knows is younger than 18 years of age.

(b) Provides that an individual who is younger than 18 years of age commits an offense if the individual purchases a play of a video lottery game; accepts money, a video credit slip, or other payment of winnings for a play of a video lottery game; or falsely represents the individual to be 18 years of age or older by displaying evidence of age that is false or fraudulent or misrepresents in any way the individual's age in order to purchase a play of a video lottery game.

(c) Provides that an offense under Subsection (a) is a Class B misdemeanor.

(d) Provides that an offense under Subsection (b) is a misdemeanor punishable by a fine not to exceed \$250.

Sec. 2004.203. ADMINISTRATIVE PENALTY. Authorizes the commissioner to impose an administrative penalty against a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

Sec. 2004.204. CIVIL PENALTY. (a) Provides that a person who violates this chapter or a rule adopted by the commission under this chapter is liable to the state for a civil penalty not to exceed \$5,000 for each day of violation.

(b) Requires the attorney general, at the request of the commission, to bring an action to recover a civil penalty authorized by this section. Authorizes the attorney general to recover reasonable expenses, including attorney's fees, incurred in recovering the civil penalty.

SECTION 2. Amends Subchapter A, Chapter 434, Government Code, by adding Section 434.020, as follows:

Sec. 434.020. VETERANS ASSISTANCE ADVISORY COMMITTEE; IDENTIFICATION OF VETERANS REQUIRING ASSISTANCE. (a) Requires TVC to establish a veterans assistance advisory committee. Requires the advisory committee, in consultation with the Department of State Health Services and local mental health authorities, to assist TVC in identifying veterans in this state who require mental health services and other assistance.

(b) Provides that Chapter 2110 (State Agency Advisory Committees) does not apply to the advisory committee created under this section.

SECTION 3. Amends Section 466.024(b), Government Code, to require the commission to adopt rules prohibiting the operation of any game using a video lottery machine or machine, except in accordance with Chapter 2004, Occupations Code.

SECTION 4. Amends Section 47.02(c), Penal Code, to provide that it is a defense to prosecution under this section that the actor reasonably believed that the conduct was permitted under Chapter 2004, Occupations Code, and consisted entirely of participation in the state lottery authorized by Chapter 466 (State Lottery), Government Code, rather than by the State Lottery Act (Chapter 466, Government Code). Makes nonsubstantive changes.

SECTION 5. Amends Section 47.09, Penal Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that it is a defense to prosecution under this chapter that the conduct was authorized under Chapter 2004, Occupations Code. Makes nonsubstantive changes.

(c) Provides that Subsection (a)(1)(C) (regarding the provision that it is a defense to prosecution under this chapter that the conduct was authorized under Chapter 2004, Occupations Code) applies to a person manufacturing, possessing, or operating a gambling device under a license or other authorization of the commission under Chapter 2004, Occupations Code.

SECTION 6. Amends Chapter 47, Penal Code, by adding Section 47.095, as follows:

Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. Provides that it is a defense to prosecution under this chapter that a person sells, leases, transports, possesses, stores, or manufactures a gambling device with the authorization of the commission under Chapter 2004, Occupations Code, for transportation in interstate or foreign commerce.

SECTION 7. Requires the commission, as soon as practicable after the effective date of this Act, to adopt the rules necessary to implement Chapter 2004, Occupations Code, as added by this Act.

SECTION 8. Makes application of this Act prospective. Provides that for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 9. Effective date: upon passage or September 1, 2009.