



Interim Report

TO THE EIGHTY-NINTH TEXAS LEGISLATURE

HOUSE COMMITTEE ON
LICENSING AND ADMINISTRATIVE PROCEDURES
NOVEMBER 2024

**HOUSE COMMITTEE ON LICENSING AND ADMINISTRATIVE PROCEDURES
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2024**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
89TH TEXAS LEGISLATURE**

**KEN KING
CHAIRMAN**

**COMMITTEE CLERK
MEGAN QUIJANO**



Committee On
Licensing and Administrative Procedures

November 22, 2024

Ken King
Chairman

P.O. Box 2910
Austin, Texas 78768-2910

The Honorable Dade Phelan
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Licensing and Administrative Procedures of the Eighty-eighth Legislature hereby submits its interim report including for consideration by the Eighty-ninth Legislature.

Respectfully submitted,

Handwritten signature of Armando Walle in black ink.

Armando Walle

Handwritten signature of Ana Hernandez in black ink.

Ana Hernandez

Handwritten signature of Jared Patterson in black ink.

Jared Patterson

Handwritten signature of Ken King in black ink.

Ken King

Handwritten signature of Craig Goldman in black ink.

Craig Goldman

Handwritten signature of Abel Herrero in black ink.

Abel Herrero

Handwritten signature of Matt Schaefer in black ink.

Matt Schaefer

Handwritten signature of Senfronia Thompson in black ink.

Senfronia Thompson

Handwritten signature of Sam Harless in black ink.

Sam Harless

Handwritten signature of Tracy O. King in black ink.

Tracy O. King

Handwritten signature of Matt Shaheen in black ink.

Matt Shaheen

Armando Walle
Vice-Chairman

Members: Craig Goldman, Sam Harless, Ana Hernandez, Abel Herrero, Tracy O. King,
Jared Patterson, Matt Schaefer, Matt Shaheen, Senfronia Thompson

TABLE OF CONTENTS

TABLE OF CONTENTS.....	5
INTRODUCTION	6
INTERIM STUDY CHARGES.....	7
CHARGE I: Monitoring	8
Texas Alcoholic Beverage Commission.....	9
Texas Department of Licensing and Regulation.....	11
HB 1859	11
HB 3579	13
State Office of Administrative Hearings.....	16
Texas Racing Commission	18
Texas Lottery Commission.....	20
Lottery Courier Services.....	22
Single Buyer Bulk Purchases.....	25
Appendix.....	26
Attachment A	26
Attachment B	30
Member Letters.....	36

INTRODUCTION

The Texas House Rules for the 88th Legislature state that the House Committee on Licensing and Administrative Procedures (the Committee) is made up of eleven members, with jurisdiction over all matters pertaining to:

- (1) the oversight of businesses, industries, general trades, and occupations regulated by this state;
- (2) the regulation of greyhound and horse racing and other gaming industries;
- (3) regulation of the sale of intoxicating beverages and local option control;
- (4) the Alcoholic Beverage Code; and
- (5) the following state agencies:
 - a. the Texas Department of Licensing and Regulation
 - b. the State Office of Administrative Hearings
 - c. the Texas Board of Architectural Examiners
 - d. the Texas State Board of Public Accountancy
 - e. the Texas Real Estate Commission
 - f. the Texas State Board of Plumbing Examiners
 - g. the Texas Board of Professional Engineers and Land Surveyors
 - h. the Real Estate Center at Texas A&M University
 - i. the Texas Racing Commission
 - j. the Texas Appraiser Licensing and Certification Board
 - k. the Texas Lottery Commission
 - l. the Texas Alcoholic Beverage Commission

At the beginning of the 88th Legislative Session, the Honorable Dade Phelan, Speaker of the Texas House of Representatives, appointed Chair Ken King, Vice-Chair Armando Wall, Representative Craig Goldman, Representative Sam Harless, Representative Ana Hernandez, Representative Abel Herrero, Representative Tracy O. King, Representative Jared Patterson, Representative Matt Schaefer, Representative Matt Shaheen, and Representative Senfronia Thompson to the House Committee on Licensing and Administrative Procedures.

INTERIM STUDY CHARGES

CHARGE I: Monitoring

Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 88th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation, including the following:

- HB 1859, relating to the regulation of air conditioning and refrigeration contracting, including eligibility for an air conditioning and refrigeration technician registration or certification;
- HB 3579, relating to the regulation of massage therapists and massage establishments by the Texas Department of Licensing and Regulation and political subdivisions; and
- HB 4446, relating to certain licensing and permitting requirements for game rooms; authorizing an occupational permit or license; authorizing a fee

CHARGE I: Monitoring

Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 88th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation, including the following:

- *HB 1859, relating to the regulation of air conditioning and refrigeration contracting, including eligibility for an air conditioning and refrigeration technician registration or certification;*
- *HB 3579, relating to the regulation of massage therapists and massage establishments by the Texas Department of Licensing and Regulation and political subdivisions; and*
- *HB 4446, relating to certain licensing and permitting requirements for game rooms; authorizing an occupational permit or license; authorizing a fee*

Texas Alcoholic Beverage Commission

Agency Overview

The Texas Alcoholic Beverage Commission (TABC) is the state agency tasked with regulating the alcoholic beverage industry in Texas. With the responsibility of overseeing this industry, the commission serves as a regulatory agency with a public service mission. In recent years, TABC has worked diligently to increase efficiency and rework how the agency was put together to ensure the mission of the agency is being adequately fulfilled.

To help the agency fulfill its motto of “supporting businesses, protecting Texans” TABC has made efforts to get licenses issued in approximately one month, opposed to the previous timeline of 60 days. Additionally, TABC has transitioned to an online tax collection, moving away from the previous system of paper packets. These changes have been well received by both the agency and the industry.

An area of concern for TABC, and agencies across the state, is the shortage of law enforcement officers. In fulfilling the tasks of the agency, TABC utilizes law enforcement officers to investigate DWI deaths and organized crime, as well as looking for intoxicated individuals. While shortages continue across the state, TABC is hopeful that increased funding could help them attract retired officers leaving other agencies, by offering compensation commensurate with their previous experience. The agency currently has a shortage of approximately 42 officers.

Despite some losses during the 2020 COVID pandemic, the industry overseen by the agency has grown 24% in the last 10 years, with the largest area of growth being in the manufacturing tier. Product registration has almost doubled in this time frame, with new products coming to market regularly.

In the next biennium, TABC is projected to collect approximately \$550 million in excise taxes and \$250 million in license fees, fines and surcharges, while operating at a budget of \$113 million. Accordingly, the agency intends to seek additional funding during the 89th Legislative Session to align salaries with SAO recommendations, and have the ability to recruit more law enforcement officers with competitive wages.

Implementation of Legislation

Senate Bill 60 was enacted on September 1, 2023 and gave distilleries the opportunity to work with other distilleries to produce distilled spirits, known as “contract distilling”. Prior to SB 60, wineries and breweries were allowed to contract with others in their industry to collaborate on product, however, distilleries were not allowed to. This legislation aligned the industry across the board. TABC has worked alongside the industry to implement the necessary rules, and believes that this legislation will lead to an expansion in product.

Senate Bill 1375, also enacted on September 1, 2023, allows distillers to participate in sampling events without having to purchase their own product from retailers. Prior to the passage of SB 1375, distillers that were participating in sampling events, such as a farmers market, were required to purchase their liquor from a retail location, and only those bottles could be used to provide free samples. SB 1375 now allows distillers to legally use their own product from inventory for these events. Over the last biennium, 70 sampling events have been held, and 47 permits were issued.

Senate Bill 2284 increased the number of 750ml bottles that can be sold to-go at a distillery from two to four. TABC implemented this legislation in a timely manner to ensure that all participants were aware of the rules. Despite the increase in allowable sales, overall sales appear to be down, following the unusually high demand for to-go bottles during COVID when on-premise sales were down.

House Bill 3712 was passed during the 88th Legislature to allow distributors to provide free samples of a six-pack of beer to retailers that had not yet purchased the product. Prior to the passage of this legislation, the distributor would have been required to charge the retailer for this beverage. HB 3712 has brought distributors into alignment with other businesses in the industry that were previously allowed to provide similar samples to retailers.

Senate Bill 998 took effect on September 1, 2023 and requires certain Mixed Beverage and Private Club permit holders, as well as their staff, to complete an opioid overdose training course. TABC worked with the industry to develop this course and is currently available online to the individuals required to participate in the training.

Senate Bill 1322 and Senate Bill 1932 allowed the sale of private collections of vintage distilled spirits and wine to retailers. This allows spirits or wine that haven't been on the market for several years to be sold to a retailer and then sold by that retailer to a consumer, restaurant or business.

Texas Department of Licensing and Regulation

Agency Overview

Texas Department of Licensing and Regulation (TDLR) is the primary occupational licensing agency in Texas. The agency licenses, certifies and regulates a broad range of professions, businesses, facilities, and equipment across the state. In total, there are currently around one million licensees under the jurisdiction of the agency. These licenses are spread among 38 varying fields and 204 license types, ranging from cosmetologists, to property tax consultants. Over the last 10 years, the agency has had a growth of licensees of approximately 47%. This has been a combination of licenses being transferred to TDLR from other agencies, the passage of legislation requiring new licenses and an increased need for workforce in already licensed fields.

Following a Sunset Advisory Commission recommendation, Senate Bill 1414 attached the Texas Board of Veterinary Medical Examiners (TBVME) to TDLR for a four-year period. SB 1414 directed TDLR to provide TBVME with policymaking and administrative oversight, guidance, and support. All licensing and regulatory functions of the TBVME, remain with the TBVME during the temporary attachment, however, the Texas Commission of Licensing and Regulation is granted final enforcement and rulemaking authority during this time. This authority does not allow the commission to adopt a new rule related to scope of practice or standards of care unless the rule has been proposed by TBVME. Along with oversight, TDLR has also been tasked with providing recommendations for necessary statute changes regarding the TBVME. Based on audits performed both internally and by the State Auditor's Office, the Sunset recommendations are being implemented appropriately.

TDLR has contracted with Smith County to help fund the Texas Financial Crimes Intelligence Center (TXFCIC). TXFCIC is the statewide center that coordinates law enforcement investigations for various types of organized financial crimes, including gas pump skimming, ATM skimming, point of sale skimming, check forgery, fuel theft, and numerous other types of organized financial crimes. Over the past few years, TXFCIC has had a stoploss and recovery of approximately \$265 million.

HB 1859

House Bill 1859 provides a new pathway to an air conditioning and refrigeration technician certification for students who complete HVAC-focused career and technology education (CTE) programs offered by Texas high schools and colleges. HB 1859 required TDLR to establish standards by rule for the “essential knowledge and skills” used to build these programs, and provided that these standards must be the same for both high school and college programs.

Additionally, HB 1859:

- Lowers the minimum age of a registered technician to 16 years of age (from 18);
- Requires in-person supervision of a registered technician under the age of 18;
- For a person seeking to become a certified technician, removes the requirement that the certification training program was completed within the preceding four years
- Waives license renewal fees for instructors of HVAC CTE programs; and
- Provides instructors of these programs with continuing education credits.

Stakeholder Workgroup

Immediately following the passage of HB 1859, TDLR assembled a team charged with establishing an implementation timeline, identifying stakeholders, drafting necessary rule changes, and making changes to TDLR’s website, licensing systems, and forms. Over the summer of 2023, TDLR also reached out to industry and education partners to create a stakeholder workgroup. The TDLR workgroup included:

- The presiding officer and three members of the Air Conditioning and Refrigeration Contractors Advisory Board
- Employees of the Texas Education Agency
- Administrators and educators from Texas State Technical College and Lone Star College
- Owners of HVAC businesses
- A representative for the Texas Air Conditioning Contractors Association

The workgroup’s first task was to evaluate existing CTE options and determine whether they provided a student the training necessary to become a certified air conditioning and refrigeration technician. The workgroup identified TEA’s HVAC and Sheet Metal CTE program as the ideal starting place. Workgroup members analyzed the essential knowledge and skills addressed by the program and concluded that its courses would provide students with appropriate training. The workgroup recommended that any CTE program provide students with hands-on classroom education and require a substantial number of hours working outside of the classroom.

Rulemaking Process

In addition to considering the workgroup’s recommendations for implementation, TDLR also published a “first look” rule draft on March 12, 2024, to seek input from the public before initiating a formal rulemaking. Changes were made to the draft to incorporate this feedback.

On March 27, 2024, TDLR’s Air Conditioning and Refrigeration Contractors Advisory Board recommended publication of the proposed rules. The proposed rules were published in the Texas Register on May 3, 2024. The advisory board met again on June 10, 2024, to recommend adoption of the proposed rules by the Texas Commission of Licensing and Regulation. The Commission adopted the proposed rules on July 23, 2024, and the rules became effective on September 1, 2024.

Overview of HB 1859 Rules

TDLR’s rules implementing HB 1859 (16 T.A.C. § § 75.124 and 75.125) require a high school or college program to include the essential skills and knowledge taught in the following TEA courses:

- Principles of Construction, one credit (19 T.A.C. §130.43)
- HVAC Technology I, one credit (19 T.A.C. §130.59)
- HVAC Technology II, two credits (19 T.A.C. §130.60)

The rules also require the program to require students to complete three credits of a “practicum,” where the student will work outside of the classroom for a licensed air conditioning and refrigeration contractor, and provide that a student may not skip a course by “testing out” and passing an examination.

The rules require that 80% of classroom time in the HVAC Technology I and II courses be dedicated to hands-on practical instruction. Similarly, the rules require that 80% of practicum time be spent outside the classroom and working for a licensed contractor. As required by HB 1859, the rules also require schools to provide a mechanism for students to earn academic credit for time worked outside of the CTE program.

TDLR’s Rule 75.124 requires institutions of higher education and private high schools to have their programs evaluated and recognized by TDLR. Schools will be required to pay a one-time fee of \$90 for this evaluation. Rather than imposing an annual obligation on schools to have their programs approved, the rules simply require schools to inform TDLR of substantial changes. As required by HB 1859, the rules also provide that a program offered by a college may not be more stringent than that offered by a high school.

HB 3579

Background

Since the transfer of the massage therapy program from Department of State Health Services to TDLR in November 2017, TDLR has been made aware of the presence of human trafficking at many massage establishments, both licensed and unlicensed, across Texas.

Prior to the passage of House Bill 3579 in 2023, both law enforcement and TDLR struggled to shut down licensed massage establishments engaged in illicit activity. TDLR had no authority to deny or revoke a license unless the applicant had been convicted of a sex or trafficking-related crime, a process that can often take years to complete. HB 3579 allows TDLR to issue an emergency order halting all business at an establishment where human trafficking activity is suspected by law enforcement or TDLR investigators.

Emergency Orders Issued

Since May 2024, TDLR’s Executive Director has signed 13 emergency orders using HB 3579 authority. These orders resulted in a shutdown or suspension at 34 locations. TDLR Enforcement currently has 247 cases opened with human trafficking indicators. To increase efficiency for investigations of this nature, additional staff will be needed.

Process of Executive Order

TDLR Executive Director signs order

- 6-month suspension
- Halts all operations
- Effective immediately

SOAH Hearing

- Must be set within 10 days
- Court only considers what evidence TDLR used to make decision
- Court either affirms, modifies, or sets aside the emergency

Resolution of Case

- While the emergency order is pending, TDLR can initiate enforcement actions to revoke licenses and seek penalties
- Parties can come to an agreed settlement, resulting in an agreed

Case Example

The following details one specific case that included a Houston area licensed massage establishment with the following indicators observed onsite:

- Employees living onsite
- No client consultation forms or business records
- Luggage and clothes found onsite
- Excessive security cameras and locked inner metal door

An Emergency Order was signed on May 31, 2024, with a hearing scheduled for June 10, 2024, but there was an agreed continuance. The Respondent agreed to revocation of 8 massage establishment licenses and a lifetime ban of all massage program licenses. The Agreed Order was signed June 21, 2024, and all licenses were revoked.

After the Respondent agreed to stop operating and agreed to leave the massage industry following the issuance of the emergency order, TDLR found at least one massage establishment continuing to operate. Through a litigation partnership with the Office of the Attorney General, TDLR was able to obtain a temporary injunction. A district judge then issued a permanent injunction against the owner. This was the first test of HB 3579 in the courts. The permanent injunction permanently stops the Respondent from owning or operating a massage establishment and from working in the massage industry in any capacity in Texas. TDLR was also awarded significant penalties, attorney's fees, and associated costs which totaled \$700,000 plus interest.

Recommendations for changes to statute related to HB 3579

Based on the experience of implementing HB 3579, TDLR has provided the following recommendations for strengthening the law:

- Provide serious consequences for violating an emergency shutdown order, including administrative, civil, and criminal penalties.
- Consider requiring TDLR to notify landlords when a shutdown order becomes final and to require landlords to take corrective actions.
- Create a lifetime ban on licensure or affiliation for persons convicted of certain types of human trafficking (HT) or HT-adjacent crimes.
- Require fingerprint background checks on co-owners, currently only required for the license holder.
- Provide a five-year prohibition on licensure for an establishment located at an address that was previously revoked or shut down for alleged HT.

State Office of Administrative Hearings

Agency Overview

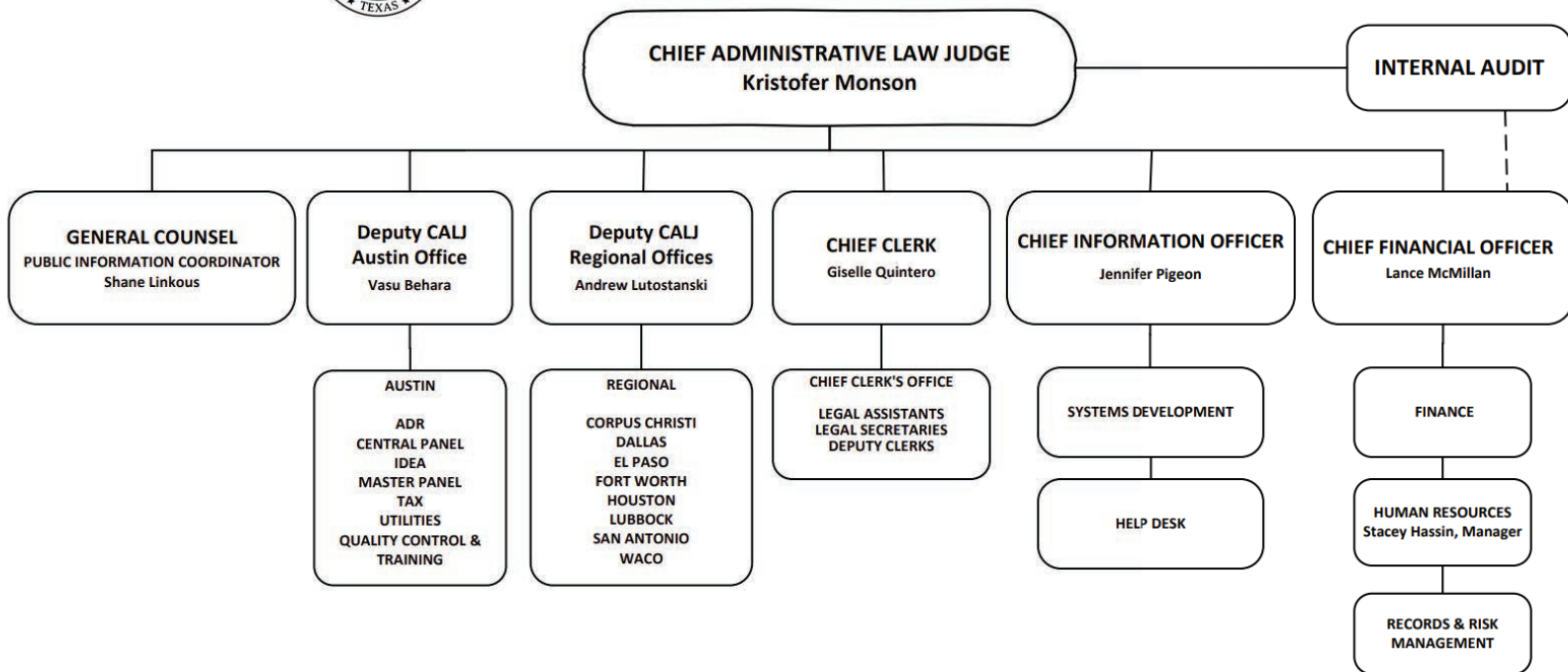
State Office of Administrative Hearings (SOAH) was created by the 72nd Legislature in 1991 and began operations in January 1992. SOAH resolves disputes between Texas agencies, other governmental entities, and private citizens either through an administrative hearing or mediation. The office is separate and independent from the agencies involved in the disputes. The administrative law judges who preside over the disputes are neutral. The specific objectives of SOAH are to:

- Conduct fair and objective administrative hearings
- Provide fair, timely and efficient decisions and proposals for decision
- Offer the opportunity for parties to resolve their disputes through mediation (or alternative dispute resolution)

SOAH holds over 25,000 administrative hearings for more than 50 state agencies and other governmental bodies each fiscal year. The agency has nine offices, an Austin headquarters and eight regional offices. 119 full-time employees work for SOAH, including 56 Administrative Law Judges spread across the state. Funding for the agency comes from a combination of General Revenue, Interagency Contracts and some Appropriated Receipts, cumulating in an annual budget around \$12.4 million.



STATE OFFICE OF ADMINISTRATIVE HEARINGS



Agency Updates

Following a Sunset Commission recommendation in 2015, SOAH began to standardize case processes across different case types. An internal audit regarding standardizing these processes was recently conducted, and the audit identified issues related to unique case processes with utility and special education cases. SOAH intends to look into these concerns and develop strategies to improve managing information and streamlining processes for these unique cases.

An additional Sunset Commission recommendation suggested the need for a new case management system. SOAH has been utilizing eCourt for two full years. This system has been fully integrated with eFile Texas, which is used by the Texas judiciary. Some realized efficiencies include:

- Reduction in paper/printing.
- Reduction in redundant work processes.
- Increase in transparency and better performance reporting data
- Increase in Judge productivity (81+% productivity rate)
 - DPS ALR Driver's License cases resolved in 90 days or less
 - General Docket resolved in 160 days / 28 days to decision
- Increases in case loads are now easier to manage.
- Assignments are easily distributed or re-assigned.
- Increase in case load capacity of regional Judges

Budget Considerations

SOAH is generally funded as a shared resource for more than 65 state programs. Due to this funding structure, there are some concerns surrounding the ability to properly staff the projected use of SOAH. The agency utilizes a zero-based budgeting method using a three year average of cases and hours. Some case types, such as human trafficking under HB 3579, have a short timeline for hearing, which requires the agency to have a certain number of judges available for hearings. This judge being set aside for quickly moving cases reduces the number of judges available for hearings that are scheduled further out. With this funding model, SOAH expressed a desire to be added as a contributing agency for fiscal notes for any legislation that will require hearings within the agency.

In recent years, SOAH has covered increases in salary to match the increasing cost of living through inter-agency contracts, however, cases that are funded by General Revenue are paying less per judge hour. Due to this imbalance, the agency is requesting increased appropriations from the 89th Legislature to adequately compensate the judges assigned to all case types.

Texas Racing Commission

Agency Overview

The Texas Racing Commission regulates and supervises pari-mutuel racing pursuant to the authority granted in the Texas Racing Act. The policy-making board consists of nine members. Seven members are appointed by the Governor with the advice and consent of the Senate to serve six-year terms, and two are ex officio members, the Commissioner of Agriculture, and the Chairman of the Public Safety Commission.

In 2022, the Racing Commission's headquarters moved from leased office space to the George H.W. Bush State Office Building, in Austin. The agency continues to support the legal challenge to the federal Horseracing Integrity and Safety Act of 2020 and amendments with the Office of the Attorney General (OAG).

Additionally, there has been no live Greyhound racing in Texas since February 2020. In September 2022, OAG issued an opinion (KP-0412) outlining a process to divest funds held in escrow by the Texas Greyhound Association (TGA). However, in October 2022, TGA and others were provided a declaratory judgement contrary to KP-0412 from the 74th Judicial District, in McLennan County. This further complicates the status of the funds. The commission directed TGA to provide a third-party, independent audit of all funds, which has yet to occur, leading the agency to suspend disbursement of state-controlled funds.

In 2023, the commission reviewed eight of the ten current racetrack licenses in Texas. During the review, the agency worked with Retama Park, a Class I Horse Track in Selma, as they addressed unsafe conditions. The commission stood up an Ad Hoc Greyhound Committee to review the industry and identify recommendations for the 89th Texas Legislature. Throughout, the agency continued to administer the Texas-bred Incentive Program and Horse Industry Escrow Account to further the horseracing industry and continued a review and modernization of the Texas Rules of Racing.

Agency Update

Over the last 18 months, the commission has spent time modernizing license standards pursuant to Sunset Commission recommendations contained in House Bill 1620. Additionally, the Racing Commission intends to continue working with DIR to develop an online licensing platform to replace their legacy database that was lost in the move to the George Bush building.

The commission has also undertaken a review of all existing business licenses over the past 18 months, which includes 10 racetracks and 3 training facilities. This review has helped the commission update records and understand the challenges and economic opportunities for the horse racing industry.

In June 2022, Executive Director Amy Cook testified before the House Licensing and Administrative Procedures Committee on the commission's planning efforts to confront illegal brush tracks and other unlicensed activity. At that time, the understanding was the agency was confined to enforcement inside the perimeter of a licensed racetrack. Following the implementation of new legislation, the commission now has expanded partnerships with local law enforcement and DPS to focus on confronting unlicensed activity across the state. Currently, the commission is tracking more than 40 unlicensed racetracks across Texas.

An example of the more focused work and the benefit of the partnerships the commission has made can be seen in a recent operation in Hockley County. The commission's law enforcement team, alongside the Hockley County Sheriff's Office, the Texas Department of Public Safety, and the Texas Animal Health Commission, executed search warrants and made multiple arrests at an illegal racetrack, known as Carril Mochomos, in Levelland. In addition to electrical shocking devices to inflict pain on racing horses, illegal equine and human drugs were discovered, as well as gambling devices and paraphernalia, and large caches of currency. Nine individuals were arrested for various offenses, including Gambling Promotion, Engaging in Organized Criminal Activity, Money Laundering, Use of Proceeds Derived from Racketeering or Unlawful Debt Collection, Unlawful Racing, and Manufacture and Delivery of a Controlled Substance.

Another area of concern that the commission is monitoring is Equine Infectious Anemia (EIA) arising at brush tracks and being carried to licensed tracks. EIA often results in the need to euthanize the horse. Accordingly, the commission has implemented additional safety protocols for licensed tracks to protect the health and safety of all participants.

Additionally, the commission has become aware of offshore sites facilitating illegal gambling on Texas horse races. The commission is currently looking into this situation and working with their law enforcement partners to combat and prevent this illegal activity.

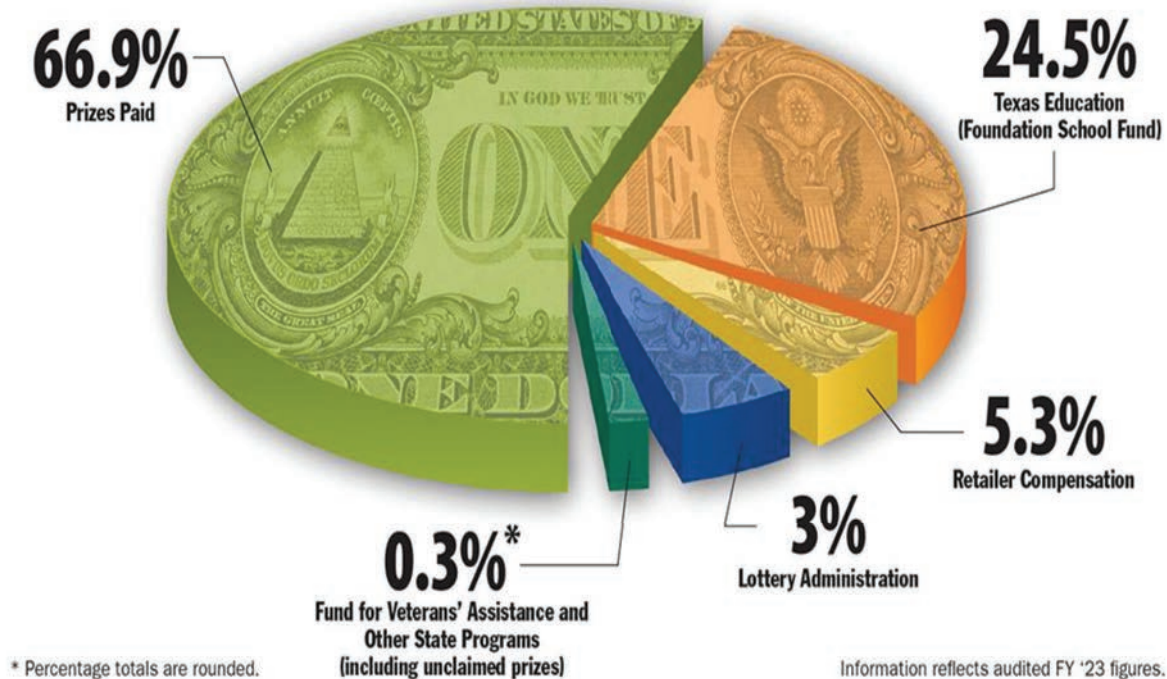
Texas Lottery Commission

Agency Overview

The Texas Lottery is regarded as one of the most successful lotteries in the United States. The past fiscal year marked the 13th straight year that a new sales record was attained, with \$8.73 billion in total sales. Buoyed by the continued popularity of the new \$100 scratch ticket price point and several massive national jackpots, scratch ticket sales reached a record \$6.729 billion and draw game sales generated a record \$1.996 billion in FY 2023. These record sales allowed for a total net contribution of \$2.161 billion to Texas schools and veterans' causes, also a new record.

Broken down further, the transfer to the State of Texas this year included \$2.131 billion for the Foundation School Fund, which supports operational needs and special program services for Texas public school districts, and \$29.7 million to the Fund for Veterans' Assistance, which provides grants to organizations that offer direct services to Texas veterans and their families. The Texas Lottery has now contributed more than \$31.8 billion to Texas public education and more than \$221 million to Texas veterans since the dedication of such funds by the Texas Legislature.

The chart below provides a breakdown of an average dollar spent on lottery games and illustrates "Where the Money Goes", based on FY 2023 financial results.



The Texas Lottery Commission (TLC) has two main functions:

- Under the State Lottery Act, the Commission is charged with operating, administering, and closely supervising all lottery games conducted in Texas to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery.
- Under the Bingo Enabling Act, the Commission is charged with administering and closely supervising all bingo conducted in Texas to ensure that bingo is fairly conducted and the proceeds derived from bingo are used for an authorized purpose.

Sunset Review

The 83rd Legislature enacted House Bill 2197, the Texas Lottery Commission Sunset Legislation. Pursuant to HB 2197, the Sunset Advisory Commission is reviewing the Texas Lottery Commission during the 2024 – 2025 review cycle. As part of this review, the commission submitted a Sunset Self-Evaluation Report in September of 2023 that can be found [here](#).

During the sunset review, a specific area of concern was the purchasing of lottery tickets by minors. The commission has worked to strengthen protections and communications about minors and lottery tickets. Specifically, the agency has implemented rule changes to revoke retailers licenses on the first offense of selling a ticket to a minor. The agency reported that over the last 10 years, 21 complaints of retailers selling lottery tickets to minors have been investigated, 4 of which were substantiated.

Since its inception over 30 years ago, the Texas Lottery has been deliberate in the development, marketing, and sale of its products exclusively to persons over the age of 18 years. While the Texas Administrative Code (TAC) makes clear that the lottery is not intended for youth participation, the State Lottery Act does allow for an adult to buy a ticket for a minor, as well as to claim a prize at a Texas Lottery Claim Center on behalf of a minor. A change to completely prohibit minor participation would require legislative action.

Charitable Bingo

The mission of charitable bingo in Texas is to allow authorized organizations the ability to raise funds for their charitable purposes through legal bingo activities.

Below is financial information regarding charitable bingo proceeds as reported by approximately 1,000 authorized organizations licensed to conduct bingo.

Calendar Year	2022	2023
Adjusted Gross Receipts (AGR)*	\$197,932,737.00	\$203,297,900.17
Net Proceeds (NP)**	\$28,450,654.39	\$ 30,929,427.94
NP as a percentage of AGR	14.37%	15.21%

Source: Texas Lottery Commission, Figures as of April 1, 2024, Unaudited

* Adjusted Gross Receipts are gross receipts minus prizes paid.

** Net Proceeds are adjusted gross receipts plus other income minus reasonable and necessary expenses.

Charitable Bingo also produces revenue for the state and local jurisdictions through a 5% fee on bingo prizes. In FY 2023, \$15.8 million in prize fees were collected by the state and \$12.7 million was reported as remittances for cities and counties.

The most significant legislative implementation project involving the charitable bingo division this interim was the implementation of SB 643. This legislation made several changes to bingo laws, including the repeal of the \$750 prize limit on a single bingo game, the increase of the bingo occasion prize limit from \$2,500 to \$5,000, increasing the number of temporary occasions a regular license holder may conduct from 24 to 48 in a year and changing the negative net proceeds evaluation period from one year to two years.

The review of the bingo rules by the division has been underway since the spring, including the inclusion of the bingo advisory committee's rule review sub committee and other bingo industry representatives. Proposed rule changes include recommendations to address concerns that were identified in the May 2024 Sunset Commission Staff Report.

Lottery Courier Services

Over the past six years, a number of lottery ticket courier companies have started operations in Texas with a different business model than typical lottery licensees. Couriers are unlicensed service providers that take orders from customers, either through an internet website on a computer, or by using an application on a mobile device, and, upon the receipt of funds from the customer, send a representative to purchase lottery tickets in person from a licensed brick-and-mortar lottery retailer. After a ticket has been purchased at a brick-and-mortar location, the courier transmits a scanned image of the ticket to the customer and retains the physical ticket until it is determined to be a winning or non-winning ticket. Winning tickets with prizes of \$600 or more must be claimed at a Texas Lottery claim center, and the courier will arrange to deliver those tickets to the customer to be claimed.

According to the Legislative Budget Board (LBB) in its analysis of legislation filed in the Senate in the 88th regular legislative session regarding lottery couriers (Senate Bill 1820), in the first seven months of FY 2023, lottery sales associated with courier services contributed to \$101.0 million in lottery ticket sales. The LBB noted that extrapolating these sales figures to a full fiscal year produces an estimated lottery ticket sales by retailers associated with couriers of approximately \$173.1 million for FY 2023.

The Texas Lottery is aware of the identity of certain couriers operating in Texas but there may be others the agency is not aware of. Some couriers, prior to starting operations, have asked the agency whether a license or other form of permission was required for them to perform their contemplated services in Texas. Based on the description of the services those couriers provided to the agency, which is consistent with the general business model described above, the agency determined that the State Lottery Act does not require a courier to obtain a license or other authorization from the agency. This conclusion is based on the fact that the form of the courier transaction does not involve a regulated sale of lottery tickets.

Some couriers work with established, non-affiliated Texas Lottery retailers to purchase tickets, while others have created an affiliated legal entity to obtain a retailer license, such that the courier and the retailer are separate business organizations under common ownership. A retailer that is affiliated with a courier must comply with all Texas Lottery sales agent licensing requirements, including being open and accessible to the public and not engaging in business exclusively as a lottery ticket sales agent.

TLC Identified Retailers Associated with Courier Companies

Retailer	City	FY 2022 Sales	Courier
Winners Corner TX LLC	Austin	\$89,181,873	Jackpocket
Jaja Accessories	Round Rock	\$6,265,393	theLotter
Luck Zone	Round Rock	\$5,668,781	theLotter
ALTX Management	Waco	\$4,116,910	Lottery.com
Players Café	Cedar Park	\$2,293,157	Lotto.com
Hooked on MT	Colleyville	N/A, sales began in FY23	Mido Lotto
Lucky Choice Limited Liability	San Antonio	N/A, sales began in FY23	Jackpot.com

Regardless of the potential differences, all couriers charge a fee for their service to purchase and manage their customers’ tickets.

During the 88th Legislative Session, the following Rider, was included in the Lottery Commission’s bill pattern in the General Appropriations Act (GAA):

Lottery Sales by Phone. It is the intent of the Legislature, pursuant to Government Code, Section 466.015, that the Executive Director of the Texas Lottery Commission shall not allow the order, purchase, or sale of lottery tickets by telephone including facilitating the sale of tickets via an application on a phone.

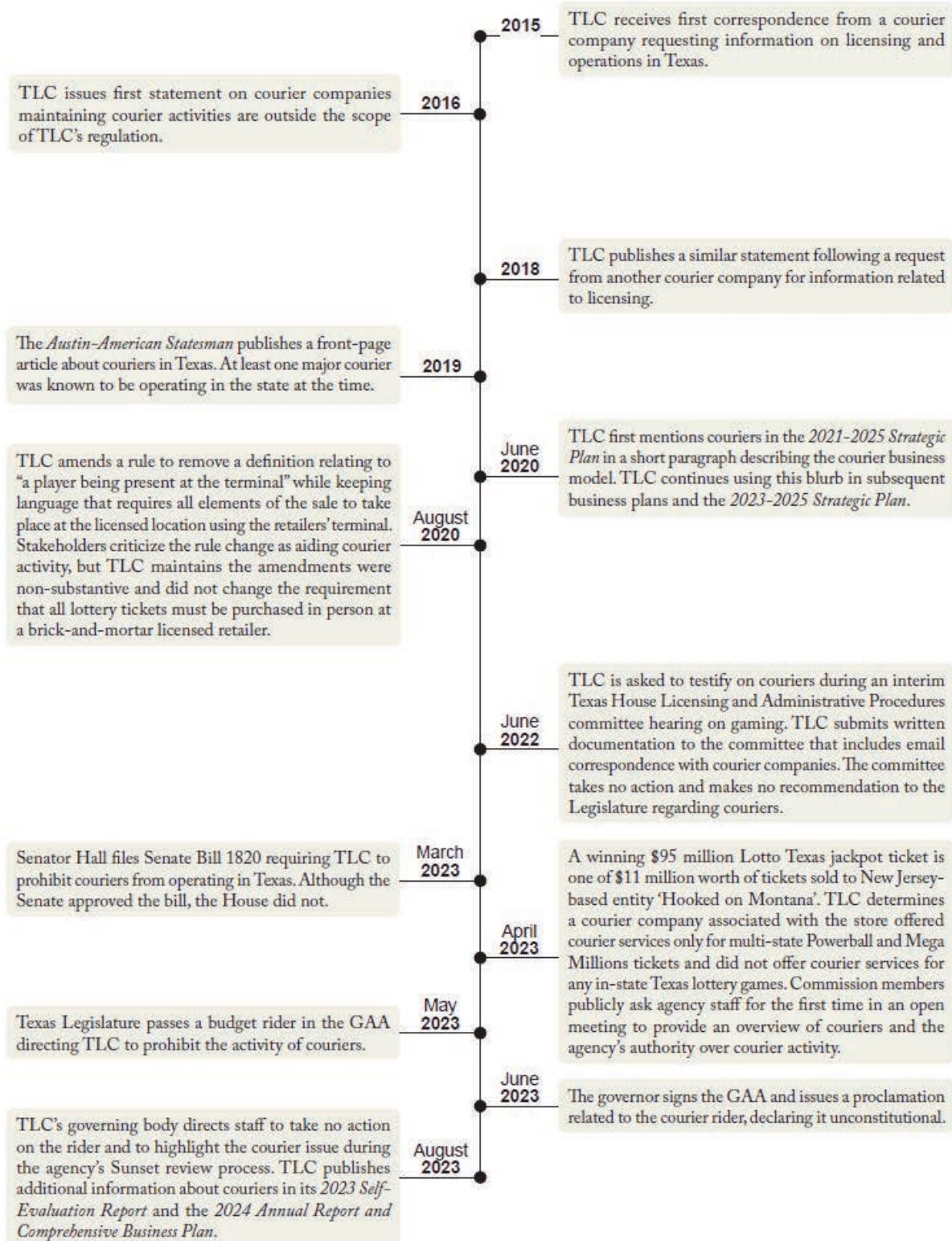
Governor Abbott’s June 18, 2023, Proclamation related to the GAA for the FY 2024-2025 biennium, included the following statement:

“I must note that Section 17.36 of Article IX is unconstitutional. Section 17.36 purports to tell the Lottery Commission that it must issue a new rule on a particular subject. This attempt to make general law in the General Appropriations Act violates Article III, Section 35 of the Texas Constitution. A similar command to the Lottery Commission was proposed in Senate Bill No. 1820, but the Legislature did not pass that bill.”

At the Lottery Commission meeting in August 2023, the board reviewed the rider and the Governor’s statement and instructed the agency to take no action on couriers at that time. The board directed staff to identify couriers as the sole “Major Issue” in the agency’s upcoming sunset review.

An extended timeline regarding courier services in Texas can be viewed on the following page.

Courier Timeline



GAA: General Appropriations Act

At this time, only three states regulate the courier services industry, New York, New Jersey and Arkansas. The agency has established an agency working group to review this issue, including reviewing other states approach to the issue. In this regard, the agency has provided the committee with recommendations for the framework of either prohibiting the industry, or regulate the industry. A draft proposal for the prohibition of these services can be found in Attachment A, and a draft proposal for the regulation of these services can be found in Attachment B.

The committee invited three courier companies to testify during the hearing on October 16, 2024, Lotto.com, Jackpocket and Jackpot.com. These courier companies currently operate in all of the aforementioned states that regulate the industry. Accordingly, they operate their services the same in Texas as they do in states that have regulations, including verification checks for age and location of the purchaser. Only users who can prove that they are over the age of 18 and currently in the State of Texas are able to purchase tickets, and these services only accept forms of payment accepted by licensed retailers. Additionally, these companies welcome and encourage regulations in Texas to ensure the integrity of the industry, including a prohibition on bulk purchases.

Single Buyer Bulk Purchases

Lottery pools have existed for as long as the lottery, where groups of individuals pool their money to purchase a number of tickets together. However, there are also groups that are formed that purchase nearly every possible combination for a single lottery game, almost guaranteeing that they will win the jackpot prize.

On April 22, 2023, there was an advertised jackpot of \$95 million for Lotto Texas, the third largest jackpot prize in the history of Lotto Texas. This prize amount generated \$25 million in sales in the days leading up to the roll, with the majority of those tickets being purchased at only four retailer locations. The agency believes there was a designed focus to attempt to purchase nearly all combinations of numbers for this game. There was some speculation about whether the purchase of the winning ticket, and the bulk order, were made through a courier, but after investigation it was determined that the order was placed in person.

A major concern that arose following the bulk purchase was the speed at which the retailers that sold the bulk order were able to obtain additional lottery terminals. In recent months, the agency has made an effort to limit bulk purchases, while still permitting individuals to pool money for lottery tickets on a smaller scale. Among other changes, any request for a large number of lottery terminals will now require a review by the division director, general counsel and executive director of the agency.

While the actions taken leading up to the April 22nd draw were legal, the perception that this made the lottery draw unfair to all those participating threatens future participation in the lottery. The agency expressed their commitment to instituting guardrails to ensure the commission is not enabling this activity, but acknowledges that they do not regulate the purchaser, so additional attempts are possible.

Appendix Attachment A

DRAFT PROPOSAL FOR THE PROHIBITION OF LOTTERY TICKET COURIER SERVICES IN TEXAS

If the Legislature determines that lottery ticket courier services shall be prohibited through general law, amendments to the State Lottery Act (Texas Government Code Chapter 466) (SLA), along with any necessary appropriations and implementing rules, would need to include provisions on various points regarding the Texas Lottery Commission's (TLC) authority.

One option to enforce the prohibition on couriers would be to allow a short wind-down period for existing courier services to cease operations. Where appropriate, suggested SLA sections that could be amended are noted below. As additional leverage to incentivize compliance, both existing courier services and the licensed sales agents ("retailers") they are associated with would be responsible for a courier service's compliance with the law. For violations, the bill would authorize the TLC to assess retailer penalties ranging from license suspension to revocation, and monetary penalties on courier services of up to \$1,000 a day. To deter future courier activity, this penalty authority would continue past the wind-down period.

I. The bill would create a criminal offense for operating a courier service in Texas and require the Texas Lottery Commission (TLC) to adopt administrative rules to enforce the prohibition on operating a courier service.

Suggested statutory changes:

A. Add new Government Code Section 466.3055 establishing a felony offense for operating a courier service, as follows:

Sec. 466.3055. COURIER SERVICE PROHIBITED. (a) No person shall operate a lottery ticket courier service in this state.

(b) Any courier service operating in this state on [September 1, 2025/the effective date of this Section] shall cease operations no later than [December 31, 2025].

(c) "Courier service" means a person that, by telephone or through an Internet application or mobile Internet application, accepts and fulfills orders to purchase lottery tickets on behalf of other persons and manages those tickets for those persons as a for-profit service.

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

B. Amend Government Code Subsection 466.015(b) and add new Subsection 466.015(b- 2) to require rules governing the prohibition on playing a lottery game through the Internet and rules governing the prohibition on operating a courier service, as follows:

Sec. 466.015. RULES....

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

-
- (1) security for the lottery and the commission, including the development of an internal security plan;
 - (2) apportionment of the total revenues from the sale of tickets and from all other sources in the amounts provided by this chapter;
 - (3) enforcement of prohibitions on the sale of tickets to or by an individual younger than 18 years of age; and
 - (4) enforcement of prohibitions on a person playing or a sales agent facilitating the playing of a lottery game by telephone or through the Internet, and on a person operating a courier service....

(b-2) For purposes of this Section:

- (1) a person plays a lottery game by telephone or through the Internet if the person, by telephone or through an Internet application or mobile Internet application, places an order to purchase a ticket for the game with a sales agent or purchases a ticket for the game from a sales agent;
- (2) a sales agent facilitates the playing of a lottery game by telephone or through the Internet if the sales agent, by telephone or through an Internet application or mobile Internet application, takes an order to sell a ticket for the game from a person or sells a ticket for the game to a person; and
- (3) a person operates a courier service if the person, by telephone or through an Internet application or mobile Internet application, accepts and fulfills orders to purchase one or more lottery tickets on behalf of other persons, manages those tickets for those persons, and receives as compensation for such services:
 - a. an amount that exceeds the face value of the tickets; or
 - b. a fee related to the order or purchase of the tickets.

Note: The SLA does not expressly prohibit Internet ticket sales, so the amendment suggested above adds this prohibition and distinguishes it from courier services.

TLC rules governing courier services would address matters including registration of existing courier services, reporting requirements, and certification that operations have ceased.

Potential emergency rulemaking authority. To facilitate the timely cessation of existing courier service operations following the bill's effective date, one option is for the bill's enacting provisions to require the TLC to adopt initial rules implementing the prohibition on an emergency basis no later than **[September 30, 2025]**.

II. The bill would extend the TLC's authority regarding audits and security to cover courier services.

Suggested statutory changes:

A. Amend Government Code Subsection 466.017(b), as follows:

Sec. 466.017. AUDITS....

(b) Each lottery operator's, ~~and sales agent's,~~ and courier service'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, or courier service~~. 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 courier service~~ or may require the lottery operator, ~~or sales agent, or courier service~~ to produce the records at the office of the commission or state auditor. If a sales agent or a courier service that has an arrangement to purchase lottery tickets from the 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, or courier service~~.

B. Amend Government Code Subsection 466.020(c), as follows:

Sec. 466.020. SECURITY....

(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 and any equipment that is located on premises of a courier service.

III. The bill would establish that the TLC's enforcement authority includes both suspending or revoking a sales agent's license for an associated courier service's violations, and assessing monetary penalties against a courier service for violations.

Suggested statutory changes:

A. Amend Government Code Subsection 466.155 by adding new Subsection (a-1), as follows:

Sec. 466.155. DENIAL OF APPLICATION OR SUSPENSION OR REVOCATION OF LICENSE....

(a-1) 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 has an arrangement to sell lottery tickets to a courier service in violation of this chapter or a rule or order adopted by the commission under this chapter, including any rule or order applicable to a wind-down period up to the date the courier service is required to cease operations....

B. Add new Section 466.1551 to establish the TLC's authority to assess monetary penalties against a courier service for violations of statutes, rules, or orders governing the operation of a courier service.

Add a new statute at Government Code Section 466.1551 authorizing the TLC to assess monetary penalties, as follows:

Sec. 466.1551. IMPOSITION OF PENALTY. (a) The commission may impose an administrative penalty against a courier service that violates this chapter or a rule or order adopted by the commission under this chapter.

(1) The amount of the administrative penalty may not exceed \$1,000 for each violation. Each day a violation continues or occurs may be considered a separate violation for purposes of imposing a penalty.

(2) If, after investigating a possible violation and the facts surrounding that possible violation, the director determines that a violation has occurred, the director may issue a violation report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty be imposed on the courier service alleged to have committed the violation, and recommending the amount of the proposed penalty. The director shall base the recommended amount of the proposed penalty on the seriousness of the violation.

(1) Not later than the 21st day after the date on which the report is issued, the director shall give written notice of the report to the courier service alleged to have committed the violation.

(2) The notice must:

- A. include a brief summary of the alleged violation;
- B. state the amount of the administrative penalty recommended; and
- C. inform the courier service of its right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Attachment B

DRAFT PROPOSAL FOR THE REGULATION OF LOTTERY TICKET COURIER SERVICES IN TEXAS

If the Legislature determines that lottery ticket courier services shall be regulated through general law, amendments to the State Lottery Act (Texas Government Code Chapter 466) (SLA), along with any necessary appropriations and implementing rules, would need to include provisions on various points regarding the Texas Lottery Commission's (TLC) authority.

One option for a regulatory structure would be to implement a courier service registration process with strict standards of conduct and enforcement authority. Where appropriate, suggested SLA sections that could be amended are noted below. As additional leverage to incentivize compliance, both the courier service and the licensed sales agent ("retailer") they are associated with would be responsible for the courier service's compliance with the law. For violations, the bill would authorize the TLC to assess retailer penalties ranging from license suspension to revocation, and monetary penalties on courier services of up to \$1,000 a day.

- I. **The bill would establish the TLC's authority to regulate courier services, require the TLC to adopt administrative rules, and set statutory standards for courier services.**

Suggested statutory changes:

A. **Amend Government Code Section 466.002 and Subsection 466.014(a), as follows:**

Sec. 466.002. DEFINITIONS. In this chapter:

- 1) "Commission" means the Texas Lottery Commission.
- 2) "Courier service" means a person that, by telephone or through an Internet application or mobile Internet application, accepts and fulfills orders to purchase lottery tickets on behalf of other persons and manages those tickets for those persons as a for-profit service.
- ~~(3)~~ 2) "Director" means the director of the division.
- ~~(4)~~ 3) "Division" means the lottery division established by the commission under Chapter 467. ~~(5)~~ 4) "Executive director" means the executive director of the commission.
- ~~(6)~~ 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.
- ~~(7)~~ 6) "Lottery game" includes a lottery activity.
- ~~(8)~~ 7) "Lottery operator" means a person selected under Section 466.014(b) to operate a lottery. ~~(9)~~ 8) "Player" means a person who contributes any part of the consideration for a ticket.
- ~~(10)~~ 9) "Sales agent" or "sales agency" means a person licensed under this chapter to sell tickets. ~~(11)~~ 10) "Ticket" means any tangible evidence issued to provide participation in a lottery game authorized by this chapter.

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 and lottery ticket courier services to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery....

B. Amend Government Code Subsection 466.015(b) and add new Subsection 466.015(b-2) to require rules governing the prohibition on playing a lottery game through the Internet and rules governing courier services, as follows:

Sec. 466.015. RULES....

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

- (1) security for the lottery and the commission, including the development of an internal security plan;
- (2) apportionment of the total revenues from the sale of tickets and from all other sources in the amounts provided by this chapter;
- (3) enforcement of prohibitions on the sale of tickets to or by an individual younger than 18 years of age; ~~and~~
- (4) enforcement of prohibitions on a person playing or a sales agent facilitating the playing of a lottery game by telephone or through the Internet; and
- (5) operation of a courier service authorized by this chapter

(b-2) For purposes of this Section:

- (1) a person plays a lottery game by telephone or through the Internet if the person, by telephone or through an Internet application or mobile Internet application, places an order to purchase a ticket for the game with a sales agent or purchases a ticket for the game from a sales agent;
- (2) a sales agent facilitates the playing of a lottery game by telephone or through the Internet if the sales agent, by telephone or through an Internet application or mobile Internet application, takes an order to sell a ticket for the game from a person or sells a ticket for the game to a person; and
- (3) a person operates a courier service if the person, by telephone or through an Internet application or mobile Internet application, accepts and fulfills orders to purchase one or more lottery tickets on behalf of other persons, manages those tickets for those persons, and receives as compensation for such services:
 - A. an amount that exceeds the face value of the tickets; or
 - B. a fee related to the order or purchase of the tickets.

Note: The SLA does not expressly prohibit Internet ticket sales, so the amendment suggested above adds this prohibition and distinguishes it from courier services.

TLC rules governing courier services would address matters such as eligibility and registration, customer service obligations, reporting requirements, and prohibiting a courier service's operations during any period when its associated retailer's license is suspended or revoked.

Potential emergency rulemaking authority. To facilitate the timely implementation of a regulatory program following the bill's effective date, one option is for the bill's enacting provisions to authorize the TLC to adopt initial rules governing courier services on an emergency basis no later than [September 30, 2025]; provided that, at the same time the TLC adopts emergency rules it initiates a regular rulemaking proceeding to publish a substantially similar rule proposal for public comment.

C. Add new Government Code Section 466.029 to establish standards of conduct for courier services, as follows:

Sec. 466.029. STANDARDS FOR COURIER SERVICES. (a) A courier service shall not operate in the state unless each licensed sales agent with whom the courier service has an arrangement to purchase tickets has previously registered the courier service in accordance with rules adopted by the commission.

- (1) A courier service must be eligible for a sales agent license under Section 466.155.
 - (2) The director may approve a registration for a person operating as a courier service only if the director finds that the person's experience, character, and general fitness are such that the person's participation as a courier service will not detract from the integrity, security, honesty, and fairness of the operation of the lottery.
- (b) A sales agent may not be a courier service.
- (c) A courier service shall maintain and take orders only through an Internet site or mobile phone application, or both, and shall prominently display on that site and application:
- (1) a warning of the risk of being defrauded if ordering lottery tickets through a courier service that is not registered by the commission; and
 - (2) information on how to seek help for a gambling problem through education, by telephone, from the Internet, or by other electronic means.
- (d) A courier service shall employ appropriate age verification functionality approved by the commission and is prohibited from providing service to any person younger than 18 years of age.
- (e) A courier service shall employ appropriate geolocation functionality approved by the commission and is prohibited from purchasing tickets for a customer physically located in another state.
- (f) A courier service shall clearly present to potential customers the fee associated with the courier service prior to confirming an order.
- (g) A courier service may accept as payment for its services only the forms of payment specified in Section 466.3052.
- (h) A courier service shall safeguard the personal information, including debit card numbers, and properly verify the age and physical location of customers using the service in accordance with rules adopted by the commission.
- (i) A registered courier service shall be permitted to redeem a lottery ticket on behalf of a customer using the service in a manner that is secure for that customer.
- (j) In lieu of delivery of a physical purchased lottery ticket to a customer using the courier service, a courier service may store such ticket on behalf of that customer, with the customer's consent, if the courier service provides an electronic receipt of the ticket purchased, with the numbers of any on-line (draw) game ticket shown on the receipt. A

customer using the courier service shall have the option at all times to obtain the ticket for the purpose of redemption. A courier service storing a ticket on behalf of a customer shall maintain a secure database of all stored lottery tickets, linked to its respective customers. The courier service shall notify a customer of a winning on-line game ticket prize amount within 24 hours of the drawing, and a winning scratch game ticket prize amount within 24 hours of purchase. The commission shall conduct, and a courier service shall submit as a condition of registration, to random audits of the database.

(k) No portion or percentage of any lottery prize awarded winnings shall be retained, charged, accepted, given, or payable to the courier service as a fee or compensation for the purchase, delivery, or redemption of a lottery ticket.

II. The bill would extend the TLC’s authority regarding audits, security, and criminal history investigations to cover courier services.

Suggested statutory changes:

A. Amend Government Code Subsection 466.017(b), as follows:

Sec. 466.017. AUDITS....

(b) Each lottery operator's, ~~and~~ sales agent's, and courier service'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, or courier service. 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 courier service or may require the lottery operator, ~~or~~ sales agent, or courier service to produce the records at the office of the commission or state auditor. If a sales agent or a courier service associated with 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, or courier service.

B. Amend Government Code Subsection 466.020(c), as follows:

Sec. 466.020. SECURITY....

(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 or any equipment that is located on premises of a courier service.

C. Amend Government Code Subsection 466.201(a), as follows:

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: ...

- (8) a person who proposes to enter into or who has a contract with the commission to supply goods or services to the commission;
- (9) a registered courier service or an applicant for a courier service registration or;
- ~~(10)~~ (9) if a person described in Subdivisions (1) through ~~(9)~~ (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:
 - (1) selling tickets; or
 - (2) handling money from the sale of tickets.

III. The bill would establish that the TLC's enforcement authority includes both suspending or revoking a sales agent's license for an associated courier service's violations, and assessing monetary penalties against a courier service for violations.

Suggested statutory changes:

A. Amend Government Code Subsection 466.155 by adding new Subsection (a-1), as follows:

Sec. 466.155. DENIAL OF APPLICATION OR SUSPENSION OR REVOCATION OF LICENSE....

(a-1) 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 has an arrangement to sell lottery tickets to a courier service that has violated this chapter or a rule or order adopted by the commission under this chapter....

B. Add new Section 466.1551 to establish the TLC's authority to assess monetary penalties against a courier service for violations of statutes, rules, or orders governing the operation of a courier service.

Add a new statute at Government Code Section 466.1551 authorizing the TLC to assess . monetary penalties, as follows:

Sec. 466.1551. IMPOSITION OF PENALTY. (a) The commission may impose an administrative penalty against a courier service that violates this chapter or a rule or order adopted by the commission under this chapter.

(b) The amount of the administrative penalty may not exceed \$1,000 for each violation. Each day a violation continues or occurs may be considered a separate violation for purposes of imposing a penalty.

(c) If, after investigating a possible violation and the facts surrounding that possible violation, the director determines that a violation has occurred, the director may issue a violation report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty be imposed on the courier service alleged to have committed the violation, and recommending the amount of the proposed penalty. The director shall base the recommended amount of the proposed penalty on the seriousness of the violation.

(1) Not later than the 21st day after the date on which the report is issued, the director shall give written notice of the report to the courier service alleged to have committed the violation.

(2) The notice must:

(A) include a brief summary of the alleged violation;

(B) state the amount of the administrative penalty recommended; and

(C) inform the courier service of its right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Member Letters

TEXAS HOUSE *of* REPRESENTATIVES



Matt Shaheen
District 66 • Collin County

November 12, 2024

Dear Chairman King:

I would like to thank you, my fellow members of the committee, and staff for the work accomplished developing the Licensing & Administrative Procedures Committee interim report. I feel that it is necessary to address the current situation relating to the failures of the Texas Lottery Commission and the operation of online sales and courier services which are blatant violations of Texas law. It is imperative that we uphold the integrity of our statutes and protect our citizens from exploitation through these unlawful services.

Current Texas law, Section 466.014 of the Texas Government Code, explicitly prohibits any form of lottery operation that is not sanctioned by the state. This includes any services that facilitate the purchase of lottery tickets through online platforms or courier services and the Texas Lottery Commission has been an absolute failure by allowing these illegal activities to occur in the Lone Star State.

The rise of illegal online lottery sales and courier services represents a troubling trend that could lead to numerous financial risks, fraud, and exploitation of Texas residents. The federal implications are severely detrimental to Texas as well. By allowing these illegal activities, the Lottery Commission has unilaterally expanded gambling, by-passing the constitutional authority of the Texas Legislature and the Governor. I strongly recommend we make it crystal clear that such practices are indeed against state law. This will not only reinforce our existing statutes but also provide clarity to law enforcement and consumers alike.

Respectfully,

A handwritten signature in black ink that reads "Matt Shaheen".

Matt Shaheen
State Representative
District 66 – Collin County

