

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE E. OTHER EXECUTIVE AGENCIES AND PROGRAMS

CHAPTER 467. TEXAS LOTTERY COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 467.001. DEFINITIONS. In this chapter:

- (1) "Commission" means the Texas Lottery Commission.
- (2) "Executive director" means the executive director of the Texas Lottery Commission.
- (3) "Communicate directly with" has the meaning assigned by Section 305.002, Government Code.
- (4) "Gift" includes a gratuity, trip, meal, or other thing of value for which the recipient does not compensate the person making the gift and that is not conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.
- (5) "Legislation" has the meaning assigned by Section 305.002.
- (6) "Member of the legislative branch" has the meaning assigned by Section 305.002.
- (7) "Participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, or similar action.
- (8) "Particular matter" includes an investigation, an application, a request for a ruling or determination, a license proceeding, rulemaking, a contract, a controversy, a claim, a charge, an accusation, an arrest, or a judicial or other proceeding.
- (9) "Person that has a significant financial interest in the lottery" means:
  - (A) a person or a board member, officer, trustee, or general partner of a person that manufactures, distributes, sells, or produces lottery equipment, supplies, services, or advertising;
  - (B) an employee of a person that manufactures,

distributes, sells, or produces lottery equipment, supplies, services, or advertising and that employee is directly involved in the manufacturing, distribution, selling, or production of lottery equipment, supplies, services, or advertising;

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

(D) a sales agent.

(10) "Political committee" has the meaning assigned by Section 251.001, Election Code.

(11) "Political contribution" has the meaning assigned by Section 251.001, Election Code.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 1997, 75th Leg., ch. 1441, Sec. 1, eff. Sept. 1, 1997.

Sec. 467.002. APPLICATION OF SUNSET ACT. The commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter, Chapter 466 of this code, and Chapter 2001, Occupations Code, expire September 1, 2025.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 1.03(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1227 (H.B. 1116), Sec. 3.08, eff. September 1, 2005.

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 2.03, eff. July 10, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 9, eff. September 1, 2013.

#### SUBCHAPTER B. COMMISSION

Sec. 467.021. MEMBERSHIP. (a) The commission is composed

of five members appointed by the governor with the advice and consent of the senate.

(b) In making appointments to the commission, the governor shall strive to achieve representation by all the population groups of the state with regard to economic status, sex, race, and ethnicity.

(c) One member must have experience in the bingo industry.  
Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.  
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 11, eff. September 1, 2013.

Sec. 467.022. TERM OF OFFICE. Members hold office for staggered terms of six years, with the terms of either one or two members expiring February 1 of each odd-numbered year.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.  
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 12, eff. September 1, 2013.

Sec. 467.023. RESIDENCE REQUIREMENT. An individual is not eligible to be a member of the commission unless the individual has been a resident of this state for at least 10 consecutive years immediately before appointment.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.024. ELIGIBILITY. (a) An individual is not eligible to be an appointed member of the commission if the individual:

(1) is registered, certified, or licensed by a regulatory agency in the field of bingo or lottery;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission;

(3) is employed by or participates in the management of a business entity or other organization regulated by or

receiving funds from the commission;

(4) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses;

(5) is an officer, employee, or paid consultant of a Texas trade association in the field of bingo or lottery;

(6) is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission;

(7) is married to an individual described by Subdivisions (2)-(6);

(8) has been convicted of a felony or of any crime involving moral turpitude; or

(9) is not a citizen of the United States.

(b) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(c) A person may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of bingo or lottery; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of bingo or lottery.

(d) A person may not act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 13, eff. September 1, 2013.

Sec. 467.025. PROHIBITED CONDUCT. (a) A commission member may not:

(1) accept any employment or remuneration from:

(A) a person that has a significant financial interest in the lottery; or

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

(2) play any lottery or bingo game conducted in this state;

(3) accept or be entitled to accept any part of the winnings to be paid from a lottery or bingo game conducted in this state;

(4) use the member's official authority to affect the result of an election or nomination for public office; or

(5) directly or indirectly coerce, attempt to coerce, command, or advise a person to pay, lend, or contribute anything of value to another person for political purposes.

(b) A commission member or former commission member or the spouse of a commission member or former commission member may not solicit or accept employment from a person regulated by the commission before the second anniversary of the date on which the commission member's service on the commission ends.

(c) Repealed by Acts 1997, 75th Leg., ch. 1441, Sec. 5, eff. Sept. 1, 1997.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.49, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1441, Sec. 5, eff. Sept. 1, 1997.

Sec. 467.0255. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the commission;
- (2) the programs, functions, rules, and budget of the commission;
- (3) the results of the most recent formal audit of the commission;
- (4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and
- (5) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 14, eff. September 1, 2013.

Sec. 467.026. REMOVAL OF COMMISSION MEMBER. (a) It is a ground for removal from the commission that a member:

- (1) does not have at the time of taking office the qualifications required by Sections 467.023 and 467.024;
- (2) does not maintain during service on the commission the qualifications required by Sections 467.023 and 467.024;
- (3) is ineligible for membership under Section 467.023, 467.024, or 467.025;
- (4) cannot discharge the member's duties for a substantial part of the member's term because of illness or disability; or
- (5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a

commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 15, eff. September 1, 2013.

Sec. 467.027. COMPENSATION AND EXPENSES. (a) A commission member is not entitled to compensation for serving on the commission.

(b) A commission member is entitled to reimbursement for actual and necessary expenses incurred in performing the member's duties, subject to any applicable limitation in the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.028. OFFICES. The commission shall maintain its general office in the city of Austin. The commission may also establish branch offices.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.029. PRESIDING OFFICER. The governor shall designate one member of the commission as presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.030. MEETINGS. (a) The commission shall hold at least six regular meetings each year on dates fixed by the

commission. The commission may meet at other times at the call of the presiding officer or as provided by commission rule.

(b) Section 551.002 does not apply to a closed meeting of the commission relating to the negotiation of a lottery operator's contract if the commission determines, in writing, that an open meeting would have a detrimental effect on the commission's position in the negotiations.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 2001, 77th Leg., ch. 1242, Sec. 1, eff. June 15, 2001.

Sec. 467.031. DIVISIONS. The commission shall establish separate divisions to oversee bingo and the state lottery.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.032. EXECUTIVE DIRECTOR. (a) The commission shall employ an executive director to administer this chapter.

(b) The executive director holds office at the will of the commission and is specifically exempted from Chapter 654.

(c) The executive director or an acting executive director shall be appointed by the commission no later than November 1, 1993.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.50, eff. Sept. 1, 1995.

Sec. 467.033. DIVISION DIRECTORS. The executive director shall employ a director to oversee each division. A division director serves at the will of the executive director and is specifically exempted from Chapter 654.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.51, eff. Sept. 1, 1995.

Sec. 467.034. EMPLOYEES. The executive director shall employ other personnel necessary to administer the laws under the commission's jurisdiction. Commission employees serve at the will of the executive director.



Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.035. RESTRICTIONS ON EMPLOYMENT. (a) The commission may not employ or continue to employ a person who owns a financial interest in:

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

(2) a lottery sales agency or a lottery operator.

(b) The commission may not employ or continue to employ a person who 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 who is subject to a disqualification prescribed by Subsection (a).

(c) In employing the executive director and other employees, the commission shall strive to reflect the diversity of the population of the state as regards race, color, handicap, sex, religion, age, and national origin.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.036. ACCESS TO CRIMINAL HISTORY RECORDS. (a) The governor shall 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 relating to an individual the governor intends to appoint to the commission.

(b) The commission shall 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 relating to an individual the commission intends to employ.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.037. DIVISION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the

staff of the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 16, eff. September 1, 2013.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 467.101. POWERS AND DUTIES OF COMMISSION. (a) The commission has broad authority and shall exercise strict control and close supervision over all activities authorized and conducted in this state under:

- (1) Chapter 2001, Occupations Code; and
- (2) Chapter 466 of this code.

(b) The commission shall ensure that games are conducted fairly and in compliance with the law.

(c) The commission also has the powers and duties granted under:

- (1) Chapter 2001, Occupations Code; and
- (2) Chapter 466 of this code.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.52, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 14.762, eff. Sept. 1, 2001.

Sec. 467.102. RULES. The commission may adopt rules for the enforcement and administration of this chapter and the laws under the commission's jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.103. DUTIES OF EXECUTIVE DIRECTOR. (a) The executive director shall perform all duties required by the commission to administer this chapter and the laws under the commission's jurisdiction. The executive director may not hold other employment.

(b) The executive director may create, abolish, transfer, and consolidate bureaus and other units that are part of the commission and that are not expressly established by law as the executive director determines to be necessary for the efficient

operation of the commission.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.104. RECORDS. (a) Except as otherwise provided by law, all commission records are subject to public inspection in accordance with Chapter 552.

(b) The executive director shall keep the records of the commission.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 792, Sec. 2, eff. Sept. 1, 1997.

Sec. 467.105. LEGAL REPRESENTATION. (a) The attorney general shall designate at least one member of the attorney general's staff to counsel and advise the commission and to represent the commission in legal proceedings. The attorney general shall make available to the appropriate prosecuting attorneys any information obtained regarding a violation of a law under the commission's jurisdiction.

(b) The attorney general may apply for injunctive or declaratory relief to enforce a law under the commission's jurisdiction or a rule adopted by the commission. Action by the attorney general under this subsection does not limit the authority of the attorney general or a prosecuting attorney to bring a criminal proceeding.

Added by Acts 1993, 73rd Leg., ch. 284, Sec. 1, eff. Sept. 1, 1993.

Sec. 467.106. GIFT OR POLITICAL CONTRIBUTION TO OFFICER OR EMPLOYEE. (a) A commission member, the executive director, or an employee of the commission may not intentionally or knowingly accept a gift or political contribution from:

(1) a person that has a significant financial interest in the lottery;

(2) a person related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) a person that owns more than a 10 percent interest

in an entity that has a significant financial interest in the lottery;

(4) a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) a person who, within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(b) A person may not make a gift or political contribution to a person known by the actor to be a commission member, the executive director, or an employee of the commission, if the actor:

(1) has a significant financial interest in the lottery;

(2) is related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) is a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(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 1997, 75th Leg., ch. 1441, Sec. 2, eff. Sept. 1, 1997.

Sec. 467.107. GIFT OR POLITICAL CONTRIBUTION TO FORMER OFFICER OR EMPLOYEE. (a) A former commission member, former executive director, or former employee of the commission may not, before the second anniversary of the date that the person's service in office or employment with the commission ceases, intentionally or knowingly accept a gift or political contribution from:

(1) a person that has a significant financial interest in the lottery;

(2) a person related in the first degree of

consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) a person that owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) a person who, within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(b) A person may not make a gift or political contribution to a person known by the actor to be a former commission member, former executive director, or former employee of the commission, if the actor:

(1) has a significant financial interest in the lottery;

(2) is related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) is a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(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 1997, 75th Leg., ch. 1441, Sec. 3, eff. Sept. 1, 1997.

Sec. 467.108. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE.

(a) A former commission member, former executive director, or former director may not:

(1) for compensation, represent a person that has made or intends to make a bid to operate the lottery before the

commission before the second anniversary of the date that the person's service in office or employment with the commission ceases;

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

(3) for compensation communicate directly with a member of the legislative branch to influence legislation on behalf of a person that has a significant financial interest in the lottery, before the second anniversary of the date that the person's service in office or employment with the commission ceases.

(b) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor. Added by Acts 1997, 75th Leg., ch. 1441, Sec. 4, eff. Sept. 1, 1997.

Sec. 467.109. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the

procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 17, eff. September 1, 2013.

Sec. 467.110. PUBLIC PARTICIPATION. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 17, eff. September 1, 2013.

Sec. 467.111. COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on each complaint filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make information available to the public describing the commission's procedures for complaint investigation and resolution.

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) The commission by rule shall adopt and publish procedures governing the entire complaint process from submission to disposition.

(e) The commission shall analyze the complaints filed with the commission to identify any trends or issues related to violations of state laws under the commission's jurisdiction. The analysis must:

(1) categorize complaints based on the type of violation alleged;

(2) track each complaint from submission to disposition;

(3) evaluate the effectiveness of the commission's

enforcement process; and

(4) include any additional information the commission considers necessary.

(f) The commission shall prepare a report on the trends and issues identified under Subsection (e) and make the report available to the public. The commission shall address the identified trends and issues, including trends and issues related to the regulation of lottery operations under Chapter 466 and of bingo under Chapter 2001, Occupations Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. 2197), Sec. 17, eff. September 1, 2013.