

SUBJECT: Revisions on limits to methods for purchasing lottery tickets

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 6 ayes — Wilson, Yarbrough, Flores, Goolsby, J. Moreno, A. Reyna
0 nays
3 absent — Haggerty, D. Jones, Palmer

WITNESSES: For — Rick Johnson, Texas Food Industry Association and Texas Association of Lottery Retailers
Against — None
On — Kimberly Kiplin, Texas Lottery Commission

BACKGROUND: The Government Code, Sec. 466.3052 makes it an offense for a person to sell a lottery ticket in exchange for payments in the form of a credit or debit card. It also is an offense to sell a lottery ticket over the phone or through mail order sales. Both offenses are Class C misdemeanors, punishable by a maximum fine of \$500.

Sec. 466.3053 makes it an offense intentionally or knowingly to purchase a lottery ticket with food stamps or a check issued under the Aid to Families with Dependent Children (AFDC) program. This offense is also a Class C misdemeanor.

The Texas Administrative Code (16 TAC 401355) prohibits retailers from selling lottery tickets by phone, fax, or other means of communication.

DIGEST: HB 703 would amend Sec. 466.3052 to make it an offense to accept as payment for a lottery ticket anything other than cash, a check, a debit card, a coupon or voucher issued by the Texas Lottery Commission, or a mail order subscription on a mail order subscription form authorized by the commission. The offense would remain a Class C misdemeanor.

The bill would repeal the law making it an offense to purchase a lottery ticket

with food stamps or an AFDC check.

HB 703 would make it an offense for a person entering into an agreement to purchase lottery tickets on behalf of another person and intentionally or knowingly to use a part of the funds solicited or accepted for purposes other than purchasing tickets or to retain a share of any prize as compensation. This offense would be a third-degree felony, punishable by two to 10 years in prison and an optional fine of up to \$10,000.

HB 703 would take effect September 1, 1999, and apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

Current law prohibits certain methods of payment for purchasing lottery tickets. HB 703 would rephrase the law to authorize specific types of payment that would be legal. This change would make it easier for the lottery commission to regulate payment forms and methods since every form of payment not allowed specifically in the statute would be prohibited.

Texans should be allowed to pay for lottery tickets with debit cards since the cards work the same way as checks. However, debit cards differ from credit cards or checks because this method of payment does not allow a card holder to spend more money than actually is in the bank account. The use of debit cards has increased in recent years. Many people make gas and grocery purchases with them. HB 703 would make it more convenient for lottery players to buy tickets at the same time they make their other purchases.

HB 703 would make it a third degree felony for people to buy lottery tickets for someone else and charge a fee or retain part of the prize. The lottery commission has fought to stop lottery ticket resellers who do not meet the strict standards required for lottery ticket retailers. There are no protections for the people who buy tickets from resellers, who often are based out of state. By providing this criminal penalty, HB 703 would give the commission additional ammunition to use against unscrupulous resellers.

HB 703 would eliminate the criminal penalty for a person who purchases a lottery ticket with food stamps or an AFDC check. Criminal penalties are more effective when they are used against sellers rather than purchasers. For example, it is an offense under current law to sell a lottery ticket to a minor, but the minor is not subject to prosecution for purchasing the ticket. People

who receive food stamps or AFDC checks often cannot pay a \$500 fine. HB 703 would focus enforcement efforts at the source.

The commission is working on rules to allow an authorized mail order subscription plan for purchasing lottery tickets. HB 703 would modify existing law to address this new program.

**OPPONENTS
SAY:**

HB 703 would make it easier to purchase lottery tickets by allowing the use of debit cards and mail order subscriptions. This would encourage gambling and contribute to the problems of compulsive gambling. Making it easier to purchase lottery tickets when people are buying groceries and gas is unwise.

If the state wants to discourage the sale of lottery tickets for food stamps or AFDC checks, then it should be a crime for both the purchaser and the seller to engage in these activities. The law should be consistent and penalize both parties to illegal sales.