

BILL ANALYSIS

Senate Research Center
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S.B. 442
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Retailers are licensed by the Texas Lottery Commission (commission) to sell lottery tickets provided and approved by the commission. In order to receive and maintain their license to sell lottery tickets, retailers must comply with administrative rules adopted by the commission governing the sale of tickets. Retailers are responsible for ensuring that tickets are purchased and sold in compliance with these rules.

Although licensed lottery retailers can control most aspect of the purchase and sale of lottery tickets, they are unable to exercise any control over the conduct or management of a lottery game. For example, the number of winners or quantity of prizes are within the exclusive control of the commission and its lottery operators. Retailers are acting as agents of the commission and the State of Texas when making sales of lottery tickets and have no ability to exercise any influence over how a particular game is administered and should not be held responsible for claims related to such issues.

Because retailers have no ability to influence or control any aspects of a lottery game and are simply acting as agents of the commission, they should not be subject to civil suit for claims brought by purchasers of lottery tickets based upon how a lottery game was administered. As proposed, S.B. 442 establishes a defense for lottery retailers named as defendants in civil lawsuits seeking to recover damages related to the fairness, management, or conduct of a game.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Lottery Commission in SECTION 1 (Section 466.161, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 466, Government Code, by adding Section 466.161, as follows:

Sec. 466.161. CERTAIN CLAIMS AND CIVIL ACTIONS AGAINST SALES AGENTS. Authorizes a person to bring a claim before the Texas Lottery Commission (commission) against a sales agent based on or related to the fairness, conduct, or management of a lottery game authorized by this chapter and provides that the person is entitled to receive a determination from the commission on the claim. Provides that a proceeding to consider a claim under this section is not a contested case under Chapter 2001 (Administrative Procedure).

(b) Requires the commission to conduct a proceeding to consider a claim brought under Subsection (a) to acquaint the parties to the claim with the applicable law and provide them with an opportunity to settle the claim. Requires the commission, unless the person presenting the clam withdraws the claim, to issue a written determination on the claim not later than the 60th day after the date the proceeding is concluded. Requires the commission to adopt the rules and procedures necessary to implement this section. Authorizes said rules and procedures to incorporate alternative dispute resolution procedures as appropriate.

(c) Prohibits an individual from filing a civil action seeking the recovery of damages or injunctive relief from a sales agent for an action based on or related to

the fairness, conduct, or management of a lottery game authorized by this chapter unless the person has first presented the claim to the commission under Subsection (a) and received a written determination on the claim from the commission.

(d) Provides that the venue for a civil action brought as provided by Subsection (c) is in Travis County, Texas.

(e) Provides that the time used by a person to bring a claim before the commission tolls the statute of limitations for a civil action on the claim until the date the commission issues a written determination under this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2005.