



INTEROFFICE MEMO

Gary Grief, Executive Director LaDonna Castañuela, Charitable Bingo Operations Director

To: Robert G. Rivera, Chairman
Cindy Fields, Commissioner
Mark A. Franz, Commissioner
Erik C. Saenz, Commissioner
Jamey Steen, Commissioner

Approved

Denied

From: Kyle Wolfe, Assistant General Counsel *KW*

Date: February 10, 2022

Re: Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §401.304 (Draw Game Rules (General)), §401.305 ("Lotto Texas" Draw Game Rule), §401.307 ("Pick 3" Draw Game Rule), §401.312 ("Texas Two Step" Draw Game Rule), §401.315 ("Mega Millions" Draw Game Rule), §401.316 ("Daily 4" Draw Game Rule), §401.317 ("Powerball" Draw Game Rule), and §401.320 ("All or Nothing" Draw Game Rule)

Attached is a draft rule proposal prepared for submission to the *Texas Register* for amendments to the above-referenced rules. The proposed amendments to §401.305 and §401.317 increase the number of consecutive draws a player can purchase in the Lotto Texas and Powerball draw games, respectively. The proposed amendments also consolidate various provisions regarding a player's verification of numbers and other selection(s) on a lottery ticket from the individual draw game rules (§§ 401.305, 401.307, 401.312, 401.315, 401.316, 401.317, 401.320) into the general draw game rule (§401.304).

Recommendation: Staff recommends the Commission initiate the rulemaking process by publishing the attached proposed rule amendments in the *Texas Register* in order to receive public comments for a period of 30 days.

1 The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.304
2 (Draw Game Rules (General)), §401.305 (“Lotto Texas” Draw Game Rule), §401.307 (“Pick 3”
3 Draw Game Rule), §401.312 (“Texas Two Step” Draw Game Rule), §401.315 (“Mega Millions”
4 Draw Game Rule), §401.316 (“Daily 4” Draw Game Rule), §401.317 (“Powerball” Draw Game
5 Rule), and §401.320 (“All or Nothing” Draw Game Rule).

6 The proposed amendments to §401.305 and §401.317 increase the number of consecutive
7 draws a player can purchase in the Lotto Texas and Powerball draw games, respectively. The
8 proposed amendments also consolidate various provisions regarding a player’s verification of
9 numbers and other selection(s) on a lottery ticket from the individual draw game rules (§§ 401.305,
10 401.307, 401.312, 401.315, 401.316, 401.317, 401.320) into the general draw game rule
11 (§401.304).

12 Kathy Pyka, Controller, has determined that for each year of the first five years the
13 amendments will be in effect, there will be no significant fiscal impact for state or local
14 governments as a result of the proposed amendments. There will be no adverse effect on small
15 businesses or rural communities, micro businesses, or local or state employment. There will be no
16 additional economic cost to persons required to comply with the amendments, as proposed.
17 Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required
18 because the proposed amendments will not have an adverse economic effect on small businesses
19 or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

20 Ryan Mindell, Lottery Operations Director, has determined that for each year of the first
21 five years the proposed amendments will be in effect, the public benefit expected is greater player
22 convenience as a result of increasing the number of consecutive Lotto Texas and Powerball
23 drawings a player can purchase, and greater understanding of the Commission’s rules and draw

1 games by licensed lottery retailers and lottery players through increased uniformity and clarity in
2 game rules.

3 Pursuant to Texas Government Code §2001.0221, the Commission provides the following
4 Government Growth Impact Statement for the proposed amendments. For each year of the first
5 five years the proposed amendments will be in effect, Kathy Pyka, Controller, has determined the
6 following:

7 (1) The proposed amendments do not create or eliminate a government program.

8 (2) Implementation of the proposed amendments does not require the creation of new
9 employee positions or the elimination of existing employee positions.

10 (3) Implementation of the proposed amendments does not require an increase or decrease
11 in future legislative appropriations to the Commission.

12 (4) The proposed amendments do not require an increase or decrease in fees paid to the
13 Commission.

14 (5) The proposed amendments do not create a new regulation.

15 (6) The proposed amendments do not expand or limit an existing regulation.

16 (7) The proposed amendments do not increase or decrease the number of individuals
17 subject to the rule's applicability.

18 (8) The proposed amendments do not positively or adversely affect this state's economy.

19 The Commission requests comments on the proposed amendments from any interested
20 person. Comments on the proposed amendments may be submitted to Kyle Wolfe, Assistant
21 General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-
22 6630; by facsimile at (512) 344-5189; or by email at *legal.input@lottery.state.tx.us*. Comments

1 must be received within 30 days after publication of this proposal in the Texas Register to be
2 considered.

3 These amendments are proposed under Texas Government Code §466.015(c), which
4 authorizes the Commission to adopt rules governing the operation of the lottery, and §467.102,
5 which authorizes the Commission to adopt rules for the enforcement and administration of the
6 laws under the Commission's jurisdiction.

7 This proposal is intended to implement Texas Government Code Chapter 466.
8 §401.304. Draw Game Rules (General).

9 (a) (No change.)

10 (b) Sale of tickets.

11 (1) – (5) (No change.)

12 (6) Player Responsibility. It shall be the sole responsibility of the player to verify the
13 accuracy of the game Play or Plays and other data printed on the ticket. The placing of Plays is
14 done at the player's own risk through the licensed sales agent who is acting on behalf of the player
15 in entering the Play or Plays.

16 (c) – (h) (No change.)

17 §401.305. "Lotto Texas" Draw Game Rule.

18 (a) – (b) (No change.)

19 (c) Lotto Texas Plays and tickets.

20 (1) – (2) (No change.)

21 (3) A player may use a single playslip or other commission-approved method of play to
22 purchase the same Lotto Texas or Lotto Texas With Extra! Play(s) [play(s)] for up to 15 [40]
23 consecutive drawings, to begin with the next drawing after the purchase.

(4) – (5) (No change.)

~~[(6) It shall be the exclusive responsibility of the player to verify the accuracy of the player's selection(s) and other data printed on the ticket.]~~

(6) ~~[(7)]~~ An unsigned winning ticket is payable to the holder or bearer of the ticket if the ticket meets all applicable validation requirements.

(d) – (h) (No change.)

§401.307. “Pick 3” Draw Game Rule.

(a) – (c) (No change.)

(d) Plays and tickets.

(1) – (10) (No change.)

~~[(11) The purchaser is responsible for verifying the accuracy of the numbers and other selections shown on a ticket.]~~

(11) ~~[(12)]~~ An unsigned winning ticket is payable to the holder or bearer of the ticket if the ticket meets all applicable validation requirements.

(e) – (h) (No change.)

§401.312. “Texas Two Step” Draw Game Rule.

(a) – (b) (No change.)

(c) Plays and tickets.

(1) – (4) (No change.)

~~[(5) The purchaser is responsible for verifying the accuracy of the numbers and other selections shown on a ticket.]~~

(5) ~~[(6)]~~ An unsigned winning ticket is payable to the holder or bearer of the ticket if the ticket meets all applicable validation requirements.

(d) – (f) (No change.)

§401.315. “Mega Millions” Draw Game Rule.

(a) – (b) (No change.)

(c) Game Description. Mega Millions is a five (5) out of seventy (70) plus one (1) out of twenty-five (25) lottery game drawn on the day(s), time(s) and location(s) as determined by the Mega Millions Lotteries, and which pays the Grand Prize, at the election of the player made in accordance with this section, or by a default election made in accordance with this section, either on a graduated annuitized annual pari-mutuel basis or as a cash value option using a rate determined by the Mega Millions Finance Committee on a pari-mutuel basis. Except as provided in this section, all other prizes are paid on a single payment basis. During the Drawing event, five (5) numbers shall be drawn from the first set of seventy (70) numbers, and one (1) number shall be drawn from the second set of twenty-five (25) numbers, which shall constitute the Winning Numbers.

(1) – (3) (No change.)

~~[(4) Player Responsibility. It shall be the sole responsibility of the player to verify the accuracy of the game Play or Plays and other data printed on the ticket. The placing of Plays is done at the player's own risk through the licensed sales agent who is acting on behalf of the player in entering the Play or Plays.]~~

(4) ~~(5)~~ Maximum Purchase. The maximum number of consecutive drawings on a single Play purchase is ten (10).

(5) ~~(6)~~ Subscription sales. A subscription sales program may be offered, at the discretion of the executive director.

(d) – (l) (No change.)

§401.316. “Daily 4” Draw Game Rule.

(a) – (c) (No change.)

(d) Plays and tickets.

(1) – (7) (No change.)

~~[(8) The purchaser is responsible for verifying the accuracy of the numbers and other selections shown on a ticket.]~~

(8) ~~[(9)]~~ An unsigned winning ticket is payable to the holder or bearer of the ticket if the ticket meets all applicable validation requirements.

(e) – (h) (No change.)

§401.317. “Powerball” Draw Game Rule.

(a) – (b) (No change.)

(c) Game Description.

(1) – (3) (No change.)

~~[(4) Player Responsibility. It shall be the sole responsibility of the player to verify the accuracy of the game Play or Plays and other data printed on the ticket. The placing of Plays is done at the player's own risk through the licensed sales agent who is acting on behalf of the player in entering the Play or Plays.]~~

(4) ~~[(5)]~~ Subscription Sales. A subscription sales program may be offered, at the discretion of the executive director.

(5) ~~[(6)]~~ Maximum Purchase. The maximum number of consecutive Drawings on a single PB Play purchase is fifteen (15) ~~[ten (10)]~~, including Power Play Plays if purchased.

(d) – (k) (No change.)

§401.320. “All or Nothing” Draw Game Rule.

1 (a) – (c) (No change.)

2 (d) Plays and tickets.

3 (1) – (4) (No change.)

4 [~~(5) It shall be the exclusive responsibility of the player to verify the accuracy of the player's~~
5 ~~selection(s) and other data printed on the ticket.]~~

6 (5) [(6)] An unsigned winning ticket is payable to the holder or bearer of the ticket if the
7 ticket meets all applicable validation requirements.

8 (e) – (g) (No change.)