

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS LOTTERY COMMISSION
AUSTIN, TEXAS
COMMISSION MEETING

SEPTEMBER 11, 2024

9:30 a.m.

AT

GEORGE H. W. BUSH BUILDING
1801 Congress Avenue
Austin, Texas 78701

Transcript prepared by Rev.com and Commission staff from an audiovisual recording.

APPEARANCES

CHAIRMAN:	Robert G. Rivera
COMMISSIONERS:	Cindy Lyons Fields Mark A. Franz Clark E. Smith James H. C. Steen
GENERAL COUNSEL:	Robert F. Biard
EXECUTIVE DIRECTOR:	Ryan Mindell
CHARITABLE BINGO OPERATIONS DIRECTOR:	LaDonna Castañuela

TABLE OF CONTENTS

PAGE

I.	The Texas Lottery Commission will call the meeting to order. Pledge of Allegiance to the U.S. and Texas flags.	5
	Texas Pledge: "Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."	
II.	Consideration of and possible discussion and/or action on the Commission's zero tolerance policy regarding the prohibition on licensed lottery retailers selling or offering to sell lottery tickets to persons younger than 18 years of age, including retailer education initiatives, age verification on vending machines and related contract provisions, enforcement activities, and retailer license revocation.	6
III.	Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §§ 401.158 (Suspension or Revocation of License) and 401.160 (Standard Penalty Chart)..	18
IV.	Public comment.	19
V.	The Commission may meet in Executive Session:	5
	A. To deliberate personnel matters, including the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Executive Director and/or Charitable Bingo Operations Director, pursuant to §551.074 of the Texas Government Code.	
	B. To deliberate the duties of the General Counsel pursuant to §551.074 of the Texas Government Code.	
	C. To receive legal advice regarding pending or contemplated litigation or settlement offers, or other legal advice, pursuant to §551.071(1) and (2) of the Texas Government Code, including but not limited to legal advice regarding the following items: <u>Pending litigation - regarding Fun 5's Scratch Ticket Game #1592, including Travis County District Court Docket No. D- 1-GN-14-005114 (Steele, et al. v. GTECH Corp.)</u> Legal advice regarding Texas Government Code Chapters 466 (State Lottery Act) and 467 (Texas Lottery Commission), the Bingo Enabling Act, the Open Meetings Act, the Public Information Act, the Administrative Procedure Act, employment and personnel law, procurement and contract law, evidentiary and procedural law, ethics laws, and general government law. <u>Legal advice regarding any item on this open meeting agenda.</u>	

- VI. Return to open session for further deliberation and possible action on any matter posted for discussion in Executive Session. Any matter posted for Executive Session also may be the subject of discussion and/or action in open session. 6
- VII. Adjournment. 19

1 PROCEEDINGS

2 WEDNESDAY, SEPTEMBER 11, 2024 (9:30 a.m.)

3 AGENDA ITEM I.

4 CHAIRMAN RIVERA: Good morning, everyone. I'd like to call
5 this meeting of the Texas Lottery Commission to order. Today is September
6 11th; the time is 9:30 a.m. We have all Commissioners here. We'll start
7 with the Pledge of Allegiance to the U.S. and the Texas flags.

8 (Pledges recited)

9 CHAIRMAN RIVERA: Okay. To my colleagues and public, thank you
10 all for joining us, in being here for this special-called meeting. We
11 have several initiatives to discuss on the important topic of prohibiting
12 sales of lottery tickets to minors under the Lottery State Act, that is,
13 the prohibition on a retailer selling or offering the sale of lottery
14 tickets to any person under the age of 18.

15 At the agency's Sunset Advisory Commission hearing on August
16 14th, we heard the concerns of legislators regarding the important issue
17 of what this Commission has done and is doing to prevent the sale of
18 lottery tickets to minors. As I stated at the hearing, this Commission
19 has a zero tolerance for any retailer selling lottery tickets to minors.
20 At today's meeting, we are affirming this policy, and it is my intention
21 for the Commission to take action to reinforce it and to send a strong
22 message to our licensed retailers, our players, and the public that this
23 activity will not be tolerated at all.

24 AGENDA ITEM V.

25 CHAIRMAN RIVERA: But before we move forward with that
26 discussion, our first item will be to go into Executive Session. I move

1 that the Texas Lottery Commission go into Executive Session to deliberate
2 personnel matters and to receive legal advice.

3 COMMISSIONER FRANZ: I second it.

4 CHAIRMAN RIVERA: Yes, so is there a second? We have that. All
5 in favor say, "aye".

6 (Chorus of "Ayes")

7 CHAIRMAN RIVERA: Okay, the Lottery Commission will go into
8 Executive Session at 9:32 a.m. on September 11th, 2024.

9 (The Commission went into Executive Session at 9:32 a.m.
10 and reconvened in open session at 9:53 a.m.)

11 AGENDA ITEM VI.

12 CHAIRMAN RIVERA: Okay, the Texas Lottery Commission is out of
13 Executive Session at 9:53 a.m. I anticipate the Commission will be taking
14 action later in this meeting, but there is no action to take now.

15 Our first discussion item, I've asked our executive director,
16 Ryan, to report to the Commission's past and current initiatives to
17 prevent sales to minors and to lay out what the agency has put into
18 motion for the future to further ensure that retailers are clearly
19 educated about the statutory prohibition and the Commission's zero
20 tolerance policy that minors are not able to purchase lottery tickets.
21 Ryan.

22 AGENDA ITEM II.

23 MR. MINDELL: Thank you and good morning Chairman and
24 Commissioners. For the record, my name is Ryan Mindell, I'm the executive
25 director. I'd like to start my report on this item by reviewing with you
26 a presentation that the Lottery Operations Division has put together,

1 covering our historical initiatives regarding lottery tickets and
2 minors, as well as a communications campaign the agency put together
3 starting last month. After the presentation, I'll report on some
4 activities by our Enforcement Division, and I'll close with a contractual
5 update.

6 So again, as we start the presentation, I'm going to first
7 cover initiatives we've had in place for a number of years. We've taken
8 this issue very seriously; I think you'll see that as we work through
9 these materials.

10 We start on slide three, this slide will cover one of our
11 main points of messaging, and that's, you must be 18 or older to purchase
12 a lottery ticket. This messaging is included on all of our tickets:
13 scratch tickets and draw tickets. It's included on what we call our
14 point-of-sale materials. So, those are items like posters that are put
15 near the point of purchase advertising our lottery products. We also
16 include that messaging on our digital marketing screens that we have on
17 most retail locations in the State. We call that ESMM, so that's the
18 technical term, but it's a digital screen that cycles through different
19 messaging and we make sure that we include that. We also have that on
20 materials at our short-term selling locations, like fairs and festivals
21 that we do throughout the State. We include this information, "Must be
22 18 or older to purchase a ticket," on all of our self-service vending
23 machines. We provide retailers a remote shutoff device that they're
24 instructed to use if they see minors interacting with the machine. More
25 to come on that. There's, again, a number of retailer communications,

1 manuals, brochures, and other campaigns that include this messaging
2 throughout the year.

3 On the next slide, we're going to start covering some
4 information we have on our website. And this is what we broadly call
5 Social Responsibility section of the website, but it encompasses our
6 Responsible Gambling program, that's RG for short. And RG contains a lot
7 of information about the prohibition on minors purchasing lottery
8 tickets. And I do want to give some context about our RG program because
9 I think that's important here. Problem gambling and the RG program is
10 focused on more than just underaged gambling, but again, it's a
11 significant focus of what we do on RG.

12 Our RG program was certified in 2015 by the World Lottery
13 Association. As part of that review, they had an independent review
14 panel, and that panel gave the agency's player education the highest
15 rating of all of our RG program elements. In 2016, we leveled up; We
16 received a Level 3 World Lottery Association certification for our RG
17 program. The independent assessment panel at that time said, quote, "The
18 focus of our player education program has been on underage control and
19 promoting play responsibly messages."

20 There's also, in the states, the National Council on Problem
21 Gambling. They worked with the North American Association for State and
22 Provincial Lotteries, NASPL, to introduce an RG parallel verification
23 program that works hand-in-hand with the World Lottery Association
24 program. We have achieved the highest level of certification from that
25 National Council on Problem Gambling program. The World Lottery
26 Association re-certified our RG program at Level 3 in 2020. At that time

1 they noted, among other things, that a main focus of our RG program is
2 underage gambling. They also said that our RG program is, "Well
3 implemented and integrated in our organization."

4 Now, our current World Lottery Association and National
5 Council and Problem Gambling certifications are valid until 2026. We
6 have every expectation they'll be continued to be recognized for efforts
7 in this area. In fact, just last year, we won two awards at the NASPL
8 annual meeting relating to our RG program. We won the award for
9 Responsible Gambling Communication in Digital Media and the award for
10 Responsible Gambling Communications in Print. Overall, I'm very pleased
11 with the work that's gone into our RG program over the years, and I'm
12 going to continue to make this a priority for the agency.

13 I did want to take a moment to recognize Teresa Edwards, who
14 runs that program for many years, in addition to her other duties, put
15 a lot of work into this presentation.

16 With that, I'm going to move on to the next slide, which has
17 more information about the RG section of our website. And, again here,
18 we call out, you must be 18 or older to purchase a ticket or redeem a
19 prize at retail. We also have a link here to the International Center
20 for Youth Gambling Problems that contains additional information about
21 the risk of youth gambling. We think this information is valuable for
22 retailers, the public, parents, and all other stakeholders.

23 On the next slide we'll finish up the information that we
24 provide on our website with a page we have about getting help. And, again
25 here, we re-emphasize, lottery is for those 18 and older, and we, again,
26 have the link on youth gambling.

1 On the next slide we have materials more focused on our
2 retailers. On some of the materials I mentioned, called point of sale,
3 we have the opportunity to put messaging facing the clerk, as well. So,
4 one side faces the player and will have message about the new game that's
5 in market, but on the reverse side we have a message to the clerk for
6 the retailer to give them reminders about different violations that we
7 want them to be aware of. We rotate those messages over time, but, again,
8 we include reminders in that program both for the violation of retailers
9 not selling tickets to minors and also not paying prizes to minors.

10 I have two other examples on this slide that come from what
11 we call the retailer RoundUp magazine. This is a monthly magazine that
12 we put together that has a number of points of emphasis for our retailers;
13 it might have updated sales material and other information, but, again,
14 we include updated regulatory reminders about appropriate retailer
15 behavior. These reminders have regularly included messaging about how
16 retailers are not authorized to sell tickets to minors or pay lottery
17 prizes to minors.

18 On the next slide, I wanted to cover our annual "Gift
19 Responsibly" campaign. We've worked with the National Council for Problem
20 Gambling and the International Center for Youth Gambling Problems since
21 2009 on this campaign. This effort is part of that recognized RG program
22 I talked about before, but it's focused specifically on lottery purchases
23 around the holidays. As part of this campaign, we will deploy messages
24 in many of the places I mentioned before, like the monthly retailer
25 RoundUp magazine and that digital ESMM screen that we have at retailer
26 locations. But we also include messages sent directly to the lottery

1 terminal at retail, social media messages for the public, emails to
2 players who have subscribed to our lottery email list, and emails to TLC
3 employees and vendors.

4 The next slide provides some more examples of what that
5 program looks like. Again, we heavily emphasize that lottery tickets are
6 not child's play. That's the messaging for the holiday campaign and we
7 put it out in a number of different locations. So that covers, really,
8 what we've done historically on a regular basis.

9 Next, I want to cover the communication campaign that the
10 staff put together in light of the concerns raised at the August 14
11 hearing. Again, we have a substantial amount of communication in market
12 throughout the year, but we wanted to supplement that with an additional
13 campaign to reemphasize the message: lottery is not for kids.

14 So first, on the next slide, we issued what's called an urgent
15 terminal message to retailers, reminding them not to sell lottery tickets
16 to minors. This is printed out right on their retailer terminal and they
17 have to receive that message to pursue additional sales on that terminal.
18 Really, it's the fastest way to get vital information to retailers. We're
19 going to be repeating that throughout the fall.

20 On the next slide, we used our social media channels, so
21 that's Facebook, Instagram, LinkedIn, and X, to get the word out. We use
22 this across all the channels, and, again, it's going to be repeated
23 throughout the fall.

24 Next, we also utilized the mobile app, the new functionality
25 that we have to issue what's called a push notification. You might be
26 familiar with these on your phone from various apps, but basically, it's

1 going to send a message to your phone. So, if you're in the app, in the
2 Texas Lottery app, it might look like a pop-up, or it might go to your
3 home screen, your notification area. And, again, we're reminding our
4 players that you must be 18 or older to purchase a lottery ticket. We'll
5 be repeating this message additional times throughout the fall.

6 On the next slide we have details of the subscriber email
7 communications. We send emails to our subscribers about how minors should
8 not be buying lottery tickets. Now I just note here, those last couple,
9 the social media, these app notifications, these email notifications,
10 we'd call that the public; those are players, those are people that are
11 interested in our message. But we do have a number of lottery retailers
12 that use these methods as well to keep up with what we're doing. And so,
13 I think we reached a non-insubstantial amount of retailers or retailer
14 employees with these messages as well.

15 On the next slide I mentioned the monthly RoundUp magazine.
16 We wanted to make sure that we included a message on this issue, on
17 minors buying tickets, in the October edition of RoundUp. That will go
18 to our retailer base later this month.

19 We had talked about the digital ESMM displays. So, on the
20 next slide, we're talking about the messaging that we added to the ESMM
21 slide. Now this takes a little bit more work to get into market, so we
22 were able to get a slide into the show that's going to be at the State
23 Fair of Texas later this month. And then that's going to be going out
24 to all retailers, starting in November. And, again, the message here,
25 you must be 18 or older to purchase or redeem tickets at retail. We also

1 include a digital banner on the digital self-service machines we have,
2 called GT-20s, and that's going to start next month as well.

3 Last but not least, we wanted to supplement on the next slide,
4 the information from our website. So, I showed you some of the
5 information we have about our RG program. The messaging we have to say,
6 hey, lottery is not for retail. It's part of the Problem Gambling
7 Campaign. But we also have message -- we have areas on our website that
8 are really a focus for retailers. They have different information that
9 they can use to get what they need for their business. So, we added
10 information here on the retailers main information page, again,
11 detailing, it's a criminal offense to knowingly, intentionally sell a
12 lottery ticket to a minor.

13 On the next slide we added a link on the RG section of the
14 retailer page, again, linking back to that information about minors and
15 lottery.

16 So, I'm going to end with a slide that has a lot of
17 information, and so I want to make sure, this is not intended for every
18 bit of it to be absorbed, but I thought it was worthwhile to show the
19 scope of the communication that we put together on this issue. So, on
20 my last slide, you can see the full schedule of communications we have
21 planned for the rest of the year. Yellow highlights are retailer focused,
22 blue highlights are player, public focused. Again, this is a lot of
23 information. It's really just meant to demonstrate the full scope of the
24 communications plan. We believe that this is extremely robust, and it
25 demonstrates how important this issue is to our agency.

1 So, again, that concludes the part of the presentation on the
2 communication efforts we've done. I did want to provide some information
3 from our Enforcement Division concerning the sale of lottery tickets to
4 minors. To start that part, I just want to give some context as well.
5 So, the agency employs nine field investigators, including two managers.
6 We have, of course, over 21,000 retailers selling Texas Lottery products.
7 So, our enforcement program is always going to be complaint and referral
8 driven. We do believe that we effectively respond and investigate all
9 the complaints we receive from the public, as well as questionable claims
10 that come in through our claims center. We do not have the ability to
11 be present for every transaction, as there's well over a billion tickets
12 sold in Texas every year.

13 With that introduction though, I will share that since 2014
14 the Texas Lottery has received 21 complaints regarding the sale of
15 lottery tickets to minors. Now during that time, there were approximately
16 5,000 complaint investigations and over 12,000 total investigations
17 conducted by the Enforcement Division. Of the 21 complaints that we
18 received, four were substantiated, two were brought to the Commission,
19 and in both cases the retailer was given a suspension. One case was
20 prepared to be brought to you, but the retailer surrendered their license
21 prior to presentation to the board. And the fourth has been referred to
22 the Lottery Operations Division and is being considered for
23 administrative action right now. For the other 17 cases, one is currently
24 under investigation, the remaining 16 investigations did not result in
25 sufficient evidence to support a violation.

1 Now, there are several challenges in these cases. Often a
2 person who makes a complaint might wish to remain anonymous or they're
3 reluctant or unable to provide additional details needed for us to
4 investigate. But if we have not been able to develop evidence to
5 substantiate the allegation, if the allegation involved a self-service
6 vending machine, we always try to take that opportunity to educate and
7 remind store staff on the use of the remote that I mentioned to disable
8 the machine if they see minors are attempting to access it, and in some
9 cases we recommended relocating the machine to a spot where it's more
10 easily observed.

11 That brings me to my last update. Again, we have over 3,000
12 of these self-service vending machines at retailers today. I do believe
13 that it is time to add additional safeguards for that equipment to
14 proactively address any potential use by minors. I've instructed our
15 system vendor, IGT, who provides that equipment to us, to implement age
16 verification and functionality by the end of the year. That would require
17 scanning of identification to initiate a lottery purchase at the self-
18 service machine. IGT is finalizing the technical approach to achieve
19 that, but I'm optimistic we can achieve that goal.

20 So, in closing, the agency has communicated on this issue for
21 years, but we've stepped up our efforts recently. We want to make it
22 clear to everyone involved in lottery in Texas -- retailers, players,
23 parents, vendors and staff -- minors should not be purchasing lottery
24 tickets. With that, I'm happy to answer any questions you may have.

25 CHAIRMAN RIVERA: Okay. Ryan, thank you very much for your
26 detailed analysis and an overview and just it's a testament to how

1 seriously that you and staff and the Lottery take this issue. So, thank
2 you for your leadership.

3 What we have heard today and the rule change that we will be
4 considering next on the agenda clearly reinforces this Commission's zero
5 tolerance to the sale of lottery tickets to minors. But before we move
6 on to the next item, I'd like to open the floor to my fellow Commissioners
7 for their comments.

8 COMMISSIONER FRANZ: Yeah, I'd just like to thank you Mr.
9 Chairman for providing this venue for the Commission to reiterate and
10 as Ryan pointed out to demonstrate the seriousness with which we take
11 this issue and have always taken this issue, and then also to provide
12 an opportunity to, as we always want to do, to do better where we can
13 and where we see opportunities. So, thanks Ryan for the thorough
14 background on that and -- I think it's good for the public to hear these
15 things which go on behind the scenes that only retailers and folks who
16 may be playing will generally see, and to share that with the general
17 public. And, also, that history of the related complaints and how few
18 have actually come forward and the way that they've been handled each
19 time and I think the activity we are going to -- or the initiative we're
20 going to take today will just further tighten that up. And, again, I'm
21 really proud of the work that our staff has done on this and as evidenced
22 by the awards we receive from national and international recognition.
23 So, frankly, proud of our work on this and proud that we're going to
24 keep moving forward on it and where we see opportunities to fix it, we
25 will. So, thanks to Mr. Chairman --

26 CHAIRMAN RIVERA: Thanks.

1 COMMISSIONER FRANZ: -- and thanks to Ryan.

2 CHAIRMAN RIVERA: Okay, thank you Commissioner. Cindy?

3 COMMISSIONER FIELDS: I'd like to say I agree with everything
4 that Commissioner Franz said, and I agree that this is an important issue
5 for this Commission and for the agency to be focused on. Texas Lottery
6 tickets should not be purchased by minors, and we need to ensure that
7 our licensed retailers and the public understand this. And that the
8 retailers understand the consequences of knowingly selling tickets to
9 minors. And as Ryan's presentation showed, I believe this has always
10 been top of mind with the staff and they're working really hard in this
11 regard. We can always find ways to improve and strengthen the messaging
12 though, so all stakeholders clearly understand the requirements. I'm
13 looking forward to working with all of you guys and Ryan on this and his
14 team on this issue and getting it tightened up a bit.

15 CHAIRMAN RIVERA: Okay. Commissioner?

16 COMMISSIONER STEEN: Thank you. I also would like to echo what
17 my fellow Commissioners have said and hopefully after reviewing our past
18 actions and the actions we are taking today it is abundantly clear that
19 under no circumstances should minors be purchasing lottery tickets. So,
20 thank you, again, Mr. Chairman and the staff and executive director for
21 all the work that's gone into this today.

22 CHAIRMAN RIVERA: Commissioner?

23 COMMISSIONER SMITH: Thanks, Chairman. Thanks, Ryan, for the
24 background history on this. I am confident that we've always taken this
25 very seriously and you guys have done a good job with it, but I also am
26 very pleased to see us putting this up sort of front and center as a

1 true priority. It's obviously important for the legislature, which means
2 it's important for us. I'll also just add, obviously, that our efforts
3 and endeavors to educate retailers is paramount. I'd also encourage us
4 to find ways to deter kids from buying lottery tickets, and if that's
5 with proactive messaging on the self-purchase machines or elsewhere, to
6 make it clear you're breaking the law if you're trying to buy a ticket.
7 And so, with that, again, I'm just glad we're moving in this direction.

8 CHAIRMAN RIVERA: Wonderful. Well, just, again, grateful to
9 all of our Commissioners for the work that y'all are putting in on this,
10 and, again, to staff and to our retailers that it is an absolutely clear
11 message that selling to minors is just not allowed. And if you do, you
12 will not be selling lottery, period. And so, this initiative is something
13 that I'm absolutely 100%, along with all of our Commissioners, in support
14 of. And so, grateful for all the work that has gone on.

15 AGENDA ITEM III.

16 CHAIRMAN RIVERA: So, the next item is the lottery rule
17 proposal. Bob, your item.

18 MR. BIARD: Good morning, Commissioners. I'm Bob Biard,
19 general counsel. Item three is the proposal to amend two lottery
20 licensing rules, Rule 401.158, on Suspension or Revocation of License,
21 and Rule 401.160, the Standard Penalty Chart.

22 The purpose of the proposed amendments is to reinforce the
23 Commission's zero tolerance policy regarding a Texas Lottery retailer
24 selling lottery tickets to a minor, by requiring revocation of the
25 retailer's license in all cases involving a violation of a law or
26 Commission rule where the licensee intentionally or knowingly sells or

1 offers to sell a lottery ticket to a person that the licensee knows is
2 younger than 18 years of age. This violation comes from a criminal
3 statute in the State Lottery Act at Texas Government Code section
4 466.3051. Under this rule proposal, the exclusive penalty for a first-
5 time violation will be revocation of the retailer's license. Staff
6 recommends approval to publish the proposal in the Texas Register to
7 receive comments for 30 days. If you approve, the official publication
8 date will be Friday, September 27th, and the comment period will end
9 Monday, October 28th. The amendments may be adopted any time after the
10 comment period ends, and it's my understanding that we have another
11 Commission meeting set for late October. So, it will be timely. You will
12 be able to adopt the rules at that time. I'll be happy to answer any
13 question.

14 CHAIRMAN RIVERA: Okay, Bob, thank you. Commissioners, any
15 discussion? Okay. Is there a motion to publish the rule proposal for
16 public comment?

17 COMMISSIONER SMITH: I so move.

18 CHAIRMAN RIVERA: Okay. Is there a second?

19 COMMISSIONER FRANZ: Second.

20 CHAIRMAN RIVERA: Okay. All in favor say, "aye".

21 (Chorus of "Ayes")

22 CHAIRMAN RIVERA: Okay, motion passes.

23 AGENDA ITEM IV.

24 CHAIRMAN RIVERA: Next item is public comment.

25 MR. BIARD: I have received no requests for public comment.

26 AGENDA ITEM VII.

1 CHAIRMAN RIVERA: Okay, Bob, thank you. Commissioners, I
2 believe this concludes the business for this Commission meeting. Is there
3 a motion to adjourn?

4 COMMISSIONER STEEN: So moved.

5 CHAIRMAN RIVERA: Is there a second?

6 COMMISSIONER FIELDS: Second.

7 CHAIRMAN RIVERA: Okay. All in favor to say, "aye".

8 (Chorus of "Ayes")

9 CHAIRMAN RIVERA: Okay, we're adjourned. Thank you, everyone.

10 COMMISSIONER FRANZ: Thank you, sir.

11 (Meeting concluded)

12

13

14

15

16

17