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To: Robert Rivera, Chairman
Cindy Fields, Commissioner
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Thru: Sergio Rey, Chief Financial Officer

A handwritten signature in blue ink, appearing to read "Sergio Rey", is written over the name of the Chief Financial Officer.

Date: January 23, 2025

Re: Report, possible discussion and/or action on the Sunset review process involving the agency, including the Sunset Advisory Commission's adopted motion directing the Sunset staff to evaluate agency leadership and to study the potential regulation of lottery courier companies.

A status report will be provided at the February 6th Commission meeting. Attached is the Sunset Staff Evaluation report from January 6th.

If have questions or need additional information, please contact me at 512-344-5426.

SUNSET ADVISORY COMMISSION

SUNSET STAFF EVALUATION

Texas Lottery Commission

2024-25

89TH LEGISLATURE



SUNSET ADVISORY COMMISSION



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Cover photo: The Texas State Capitol was completed in 1888. With the Goddess of Liberty atop the dome, the Texas State Capitol Building is 19 feet taller than the U.S. Capitol Building in Washington, D.C. The photo shows the south facade of the Capitol. Photo Credit: Janet Wood

TEXAS LOTTERY COMMISSION

SUNSET STAFF EVALUATION

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INTRODUCTION

In May 2024, Sunset staff published its *Staff Report on the Texas Lottery Commission* following a nearly seven-month review. Staff highlighted the challenges the Texas Lottery Commission (TLC) faces trying to balance the state's interest in raising revenue and regulating the lottery and charitable bingo — two of the state's forms of legalized gaming. The report criticized the agency's policymaking body for being disengaged and playing a passive role in critical oversight functions. When the Sunset Commission held its public hearing on the staff report in August 2024, TLC faced tough questions about its enforcement efforts, especially related to underage ticket sales, its response to lottery ticket courier companies, and its overall approach to navigating a sometimes vague statute. The agency's commission chair and recently appointed executive director struggled to respond, and Sunset Commission members were often unsatisfied with the responses.

As a result, when the Sunset Commission convened in September 2024 to make decisions related to TLC, it directed Sunset staff to evaluate the effectiveness of the agency's executive leadership, and in consultation with TLC and stakeholders, to study the potential regulation of lottery ticket courier companies in Texas.

The following sections summarize Sunset staff's approach to fulfilling this charge. Staff was not tasked with making recommendations and did not do so. As directed by the Sunset Commission, staff has also provided this evaluation to the Senate Committee on State Affairs and House Committee on Licensing and Administrative Procedures.

Effectiveness of Agency Leadership

In evaluating the effectiveness of TLC's executive leadership, Sunset staff assessed the agency's decision making over the past decade as it relates to certain key policy areas. Given the short timeframe to conduct its evaluation and the challenges inherent in assessing the effectiveness of decisions made years ago, often by staff no longer with the agency, Sunset staff did not draw definitive conclusions on the overall effectiveness of the agency's current leadership. However, Sunset staff's evaluation revealed that decisions made by TLC's previous executive director likely contributed to the uncomfortable position the agency finds itself in today.

Potential Regulation of Lottery Ticket Courier Companies

Sunset staff evaluated the legal landscape of couriers across the country and compared models other states use to regulate them. As part of its evaluation, Sunset staff compared key regulatory requirements in states that regulate couriers with Texas' current standards for licensing lottery retailers and TLC's proposed courier regulation. Appendix A details the regulatory requirements Sunset staff evaluated.

SECTION 1

Evaluating the Effectiveness of TLC's Executive Leadership

Background

In 1991, Texas voters approved establishing a state lottery, and the Legislature created the Texas Lottery Commission (TLC) in 1993. Since 1997, TLC has contributed over \$34 billion to the Foundation School Fund and, since 2009, provided over \$253 million to the Texas Veterans Commission.¹ Despite being a significant source of revenue, TLC has had a turbulent existence. The Legislature has failed or almost failed to pass TLC's Sunset bill three times, and the agency cycled through 11 executive directors or acting executive directors in its first 16 years.² Present throughout this turbulence was Gary Grief, who started with TLC when the lottery was still a function in the Office of the Comptroller of Public Accounts. Grief served as deputy executive director and then acting executive director twice before becoming executive director in 2010. Grief served 14 years as executive director before retiring in February 2024.³ After a brief stint as acting executive director, the commission appointed Ryan Mindell as the agency's new head in April 2024.⁴

Sunset staff's approach to evaluating agencies typically focuses on statutory and administrative processes and operations that impact their efficiency and effectiveness, not on specific personnel. The Sunset Commission's charge to staff in September 2024 to evaluate the effectiveness of TLC's executive leadership is unique and involves a level of subjectivity. Given the atypical task and limited time, Sunset staff focused on TLC's historical and more recent decision making around key policy areas and the roles of those at the top of the organization in making those decisions. Building upon its original review, Sunset staff conducted additional interviews with agency staff and poured through thousands of additional pages of internal correspondence and documentation. However, the documentation remains incomplete. TLC has been dealing with certain issues for almost a decade, and during that time, some participants in the decision-making process have moved on, retired, or passed away. In addition, many communications were likely verbal and not preserved. Finally, and perhaps most importantly, certain key decision makers did not respond to Sunset staff's requests for interviews, including former Commission Chair J. Winston Krause and former Executive Director Grief. That said, a complete-enough record remains on these issues for Sunset staff to make some key observations.

Findings

The former TLC executive director made high-risk policy decisions without adequate oversight.

With his extensive background, former TLC Executive Director Grief is respected by agency staff and industry stakeholders as an expert on the Texas lottery. Furthermore, after becoming executive director, Grief ushered in an era of stability and prosperity at TLC, with the agency achieving record sales in each of his years as executive director as well as being awarded a Greater Austin Top Workplaces 2022 honor from the *Austin American-Statesman*.⁵ However, Sunset staff's evaluation of decision making around several important policy areas, discussed below, revealed that Grief seemed quite comfortable operating in the gray areas of the State Lottery Act when the agency's authority was not crystal clear or the Legislature remained silent on emerging issues. This high-risk approach likely contributed to the uncomfortable position the agency finds itself in today — not fully trusted and under scrutiny by

some members of the Legislature. While the new executive director, Mindell, has been with the agency for eight years, he was not a decision maker when many of the decisions now being questioned were originally made.⁶ In fact, on some of the topics discussed below, evidence suggests Mindell attempted to raise concerns that Grief chose not to act on.

- **Couriers.** As noted in Sunset’s May 2024 staff report, TLC staff has been aware of lottery ticket courier companies (couriers) since 2015 yet never sought formal guidance to clarify the agency’s authority regarding couriers. Sunset staff’s additional investigation only emphasized the extent to which Grief avoided getting that guidance and allowed an environment where couriers flourished. The State Lottery Act grants TLC broad authority to conduct the lottery and develop rules to “exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery.”⁷ Statute does not, however, specifically mention couriers or courier-like operations. When a courier approached TLC in late 2015 seeking permission to operate in Texas, the agency informed the company it would not issue a response on the legality of their services. As couriers’ interest in doing business in the state increased, in 2016 TLC legal staff analyzed the proposed business model and identified a list of potential legal and policy issues, several of which are highlighted in the accompanying textbox. A separate legal staff analysis concluded the agency likely lacked the authority to issue an official opinion regarding couriers.

Potential Legal Issues with Courier Operations

- **Potential unauthorized sales.** Because the purchaser pays the courier, rather than the registered retailer, whether the courier is selling the ticket to the purchaser is questionable. Since the courier is not a licensed sales agent, selling the ticket would violate state law.
- **Potential group purchase for gain.** Depending on the courier business model, questions exist about whether they are acting as an individual making a group purchase for individual financial gain, which would violate the law.
- **Potential Penal Code violations.** Questions exist about whether couriers would fall under the Penal Code’s defenses to prosecution for violating gambling provisions if their operations are not “necessary incident[s] to the operation of the state lottery” or “directly authorized.”

Despite these analyses, Grief shifted the agency’s position in 2016 and instructed the lottery division director to issue a new response to the same courier company that initially reached out in 2015. TLC informed the courier that based on the description of its business model, the State Lottery Act does not require the company to obtain a license because the transactions do not involve a regulated sale of lottery tickets. Thereafter, “TLC lacks authority” became the agency’s standard response when asked about courier regulation. In 2018, as couriers began significant operations in Texas, TLC legal staff reanalyzed courier operations and found the legal and policy issues previously identified had not been addressed.

Throughout this period, as Sunset staff highlighted in its original report, TLC staff failed to adequately raise the courier issue to the commission or take steps to clarify the agency’s authority by requesting an opinion from the Office of the Attorney General (OAG). Had Grief recommended the agency pursue an opinion, it may have been helpful. As discussed further in Section 2, in response to a request from a Sunset Commission member, the OAG offered informal guidance suggesting that even though TLC did not have the authority to license couriers and legislative action may be required to enact a regulatory scheme that comprehensively addresses couriers, the agency likely has authority to regulate aspects of courier operations.

Similarly, TLC never sought guidance on couriers from the Legislature until including the topic as the only major issue it raised in its *Self-Evaluation Report* submitted to the Sunset Commission in September 2023.⁸ Instead, Grief appeared to put the responsibility of working with the Legislature on the couriers themselves. In a 2018 article in *LaFleur's*, a lottery industry publication, Grief commented, “The technology is here and will quickly overwhelm us if we don’t embrace it and leverage it in the right direction. Private industry is much better positioned to influence policymakers than state lotteries, only making our job that much tougher to harness this enormous market potential to our advantage.”⁹

Rather than seek legislative guidance, TLC downplayed issues surrounding couriers. When called to testify in front of the House Licensing and Administrative Procedures Committee in June 2022, Grief testified that TLC has “no business or licensing relationship with these entities.”¹⁰ This statement is, at best, misleading. In fact, TLC potentially has a business relationship with couriers. In April 2020, Grief signed merchant of record letters for three couriers. Addressed to international payment processing companies, these letters appear to allow the couriers to conduct credit or debit card transactions “on behalf of the Texas Lottery in Texas.” Despite Sunset staff’s inquiries, TLC has been unable to explain, and Sunset staff has been unable to determine, the exact purpose of these letters.

While TLC has steadfastly denied regulatory authority over couriers, courier sales have grown to represent an estimated 9 percent of TLC’s draw game sales and have significantly contributed to maintaining TLC’s streak of record sales.¹¹ Throughout Sunset staff’s original review and in public settings, Grief regularly touted the agency’s record sales and increased contributions to the school fund.¹² Given the trend of bringing in ever-increasing amounts of revenue during his tenure, it is impossible to discount the possibility that the desire for increased sales may have motivated Grief’s decisions on couriers.

- **Fantasy sports.** Fantasy sports gaming is a growing market that rose to national prominence in the early 2010s.¹³ These games involve players selecting professional athletes and receiving points that correspond to the athlete’s performance over a given period of competition. Contest rules, entry fees, and prize pools vary widely. Other state lotteries operate fantasy sports-type games. For example, the Delaware Lottery, acting under a partial exemption from a 1992 federal ban on sports gambling that the Supreme Court later struck down in 2018, has offered Sports Lottery “parlay cards” since 2009.¹⁴ These games allow players to pick the amount of their wager and the number of teams they bet on to win, against fixed odds printed on the face of the card, for a given week of National Football League competition.¹⁵

In 2015, without getting formal legislative or commission guidance, internal correspondence reveals Grief directed TLC staff to explore the agency’s potential reach into fantasy sports gaming. Although TLC later publicly insisted its focus was on pursuing fantasy sports in the realm of a traditional lottery game, as the timeline on the following page describes, the agency’s efforts went beyond its normal process when considering a new game. TLC’s typical practice consists of internal meetings to evaluate game proposals and a legal evaluation of each game followed by staff recommendations to the executive director. Furthermore, Grief instructed staff to plan to launch a new fantasy sports game before the 2016 football season. Ultimately, after the release of a *Dallas Morning News* exposé and subsequent instruction from the governor’s office, TLC ceased these planning efforts.

Sunset staff found no evidence suggesting Grief sought formal direction from the commission until after he had already begun exploring the agency’s potential role in this area, and the commission never discussed the matter publicly. Furthermore, TLC did not inform the Legislature about the

agency's pursuit of fantasy sports gaming in its *2015 Comprehensive Business Plan and Annual Report* or request an OAG opinion regarding its authority in this area.¹⁶ When a member of the Legislature did make such a request, the OAG concluded "a court would likely determine that participation in daily fantasy sports leagues is illegal gambling."¹⁷

TLC Fantasy Sports Timeline



- Sponsorships.** TLC engages in a variety of activities to promote games and encourage player participation. These activities include ticket partnerships with recognized brands, second-chance drawings for scratch tickets, and obtaining the naming rights to or sponsoring certain physical facilities. While TLC enjoys broad authority to advertise and promote the lottery, this authority is not unlimited. In 2005, an OAG opinion concluded TLC has "general statutory authority to regulate the means of advertising the lottery," but such authority does not permit the agency to sell promotional items.¹⁸ Sponsorship arrangements, such as purchasing naming rights, are not contemplated in statute, and whether TLC has the authority to enter into such arrangements is unclear.¹⁹

Despite these potential obstacles, TLC first considered a sponsorship agreement involving the purchase of naming rights in 2015. TLC legal staff identified the agency's ambiguous authority to enter such an agreement and identified several legal and policy risks involved in pursuing these sponsorships. These risks included the Legislature or public potentially viewing sponsorship as state involvement in a private business activity and the agency potentially assuming the risk of the TLC-named facility hosting an event that negatively reflected on the lottery such as a drug-themed or overtly sexual event.

Nevertheless, Grief presented The Star facility “High School Football Tribute Presented by the Texas Lottery” sponsorship deal to the commission in an open meeting with his unreserved support. TLC did not seek the OAG’s clarification on whether sponsorship agreements fell within the agency’s authority or ask the commission for guidance. Instead, when staff presented this issue to the commission, it was presented as a great advertising opportunity and the potential risks were not raised to the commission. Subsequent sponsorships, such as the Texas Lottery Plaza at the Toyota Music Factory, were divided into a series of contracts, each under \$1 million, that did not require commission approval.²⁰ Staff consistently presented the deals to the commission as briefing items for their awareness, and Grief noted they were a “very creative” way to make up for reduced advertising funding.

This evaluation found multiple incidents where Grief was comfortable operating in ambiguity without getting formal guidance from the commission early in the decision-making process. However, these findings do not absolve the commission of its responsibility to provide adequate oversight. The executive director works for the commission. As highlighted in Issue 1 of Sunset staff’s report on TLC, the commission was disengaged, and evidence that the former executive director made major decisions independently reflects a critical lack of oversight by the commission.

The commission and new executive director are working to address the oversight issues and be responsive to the Legislature’s concerns.

TLC has had two major leadership shocks within the year. First, former Executive Director Grief retired unexpectedly and with very little notice about halfway through the agency’s Sunset review. Second, the Sunset review revealed a passive commission that needed to take a more active role in its policymaking functions. While evaluating the full effects of these shocks in the short term is impossible, the initial results appear positive.

In his new role as executive director, Mindell has attempted to increase legislative outreach to reestablish trust, ensure the agency is acting within its mandate, and keep the Legislature informed on key issues. This engagement includes Mindell meeting with legislative staff and members directly instead of relying on TLC’s Government Affairs staff to do so.

The commission is also increasing its engagement and working to comply with Sunset Commission decisions. The commission has begun actively questioning staff during meetings, established subcommittees to be more involved in key oversight areas such as legal and internal audit, and proposed rules to address gaps identified by Sunset staff, as detailed in the accompanying textbox.²¹ The commission also updated its policy delineating the division of responsibilities between the commission and executive director. Adopted at the commission’s December 2024 meeting, the policy provides more specific guidance for the executive director, making it clear that all significant policies affecting the commission, the lottery, or bingo industry are driven by the commission and any issues the executive director becomes aware of must be raised to the commission for its consideration.²²

Recent TLC Rule Proposals

- Clarifying that a licensee may not operate exclusively as a lottery sales agent.
- Clarifying that selling lottery tickets over the internet is a violation of state law.
- Denying licensure if the applicant intends to sell lottery tickets via the internet.

Additionally, TLC is working to address several concerns raised by Sunset Commission members at its August public hearing, as described below.

- **Couriers.** As discussed in more detail in Section 2, TLC has taken an active role in studying potential courier regulation. Mindell established a working group on couriers to keep the commission and Legislature updated on any developments in the field, and the agency presented the Legislature with recommendations on how Texas could either regulate or ban couriers. The commission has also revoked the 2020 “Point of Sale” rule that some stakeholders had interpreted as enabling courier operations.²³
- **Underage sales.** The commission has taken actions to increase retailer awareness of underage sales as well as enhance the penalty for underage sales to automatic license revocation for the first offense.²⁴ The new executive director has directed its lottery operations vendor, IGT Corporation, to update all lottery vending machines with age verification technology to prevent underage sales.²⁵
- **Bulk purchases.** The new executive director has taken action to make bulk purchases harder by limiting the speed at which lottery machines can print tickets and requiring his review and approval to deploy additional machines when the request falls outside of historical parameters.²⁶ While these steps cannot stop bulk purchases, they make such schemes more difficult to execute.

While work remains, these efforts demonstrate the commission’s and current executive director’s desire to repair TLC’s relationship with the Legislature and ensure the agency operates effectively and fairly while adhering to the Legislature’s intent.

¹ Texas Lottery Commission (TLC), “Supporting Texas Education and Veterans,” accessed online December 5, 2024, https://www.texaslottery.com/export/sites/lottery/Supporting_Education_and_Veterans/index.html.

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- 3 Ibid.
- 4 Ibid.
- 5 Ibid.
- 6 TLC, "Texas Lottery Commission Appoints Ryan Mindell Executive Director," news release, April 18, 2024, accessed online December 5, 2024, https://www.texaslottery.com/export/sites/lottery/Documents/news_releases/2024/04-18-24_TLC_Ryan_Mindell_Executive_Director_Announcement_Press_Release.pdf.
- 7 Section 466.014, Texas Government Code. All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>.
- 8 TLC, *Self-Evaluation Report*, p. 115, accessed online December 12, 2024 <https://www.sunset.texas.gov/public/uploads/2023-09/Lottery%20Commission%20SER.pdf>.
- 9 Byron La Fleur, "Couriers: The Shifting Landscape of Online Lottery," *La Fleur's*, April 5, 2018, accessed online December 3, 2024, <https://lafleurs.com/magazine-feature/2018/04/05/couriers-the-shifting-landscape-of-online-lottery/>.
- 10 Gary Grief, Executive Director, Texas Lottery Commission, testimony before the House Licensing and Administrative Procedures Committee, Austin, June 7, 2022, accessed online December 5, 2024, https://tlchouse.granicus.com/MediaPlayer.php?view_id=46&clip_id=23270.
- 11 TLC, *2022 Annual Report and 2023-2024 Comprehensive Business Plan*, accessed online December 13, 2024, https://www.texaslottery.com/export/sites/lottery/Documents/TxLottery_AnnualReportBusinessPlan2024.pdf.
- 12 NASPL Insights Online, "Q & A with Gary Grief," February 16, 2024, accessed online December 5, 2024, <https://www.nasplinsights.com/post/q-a-with-gary-grief>.
- 13 Wayne Brough, "Fantasy Sports and Fantasy Regulation," *R Street*, June 13, 2024, accessed online December 8, 2024, <https://www.rstreet.org/commentary/fantasy-sports-and-fantasy-regulation/>.
- 14 Delaware Lottery, "Fact Sheet," web page last modified April 2024, accessed online December 8, 2024, <https://www.delottery.com/Fact-Sheet>; WBOC, "Delaware Launches Expanded Sports Betting," web page last modified October 21, 2021, accessed online December 8, 2024, https://www.wboc.com/archive/delaware-launches-expanded-sports-betting/article_2f72101a-c8d3-5bd1-886a-43d0709a19ba.html.
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- 16 TLC, *2015 Comprehensive Business Plan and Annual Report*, accessed online December 8, 2024, <https://www.texaslottery.com/export/sites/lottery/Documents/BusinessPlanAnnualReport2015.pdf>.
- 17 Texas Attorney General Opinion No. KP-0057 (2015).
- 18 Texas Attorney General Opinion No. GA-0323 (2005).
- 19 Chapter 466, Subchapter C, Texas Government Code.
- 20 16 Texas Administrative Code, Part 9, Chapter 401, Subchapter A, Section 401.105 (2019) (TLC, *Major Procurement Approval Authority, Responsibilities, and Reporting*).
- 21 *Texas Register*, p. 9032 (2024) (to be codified at Texas Administrative Code, Sections 401.153(b)(12), 401.158(b)(27), 401.160(h), 401.355(a), and 401.153(b)(13)) (proposed October 30, 2024) (TLC).
- 22 Bob Baird, General Counsel, TLC, Testimony before the Texas Lottery Commission, Austin, December 5, 2024, accessed online December 5, 2024, https://www.youtube.com/watch?v=QZygvj_id60.
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SECTION 2

Studying the Regulation of Lottery Courier Companies

Background

According to the Texas Lottery Commission (TLC) and industry practice, lottery ticket courier companies (couriers) are service providers that take lottery ticket orders from customers through an internet website or mobile device application and collect a service fee for ticket delivery. While couriers initially only allowed players to purchase draw game tickets, some couriers now offer scratch ticket games as well. Couriers independently publicize and promote the lottery through their websites and other advertising channels and have generated significant lottery ticket sales. Couriers first began operating in Texas around 2015, and since that time, licensed retailers associated with couriers have emerged as some of the state's top-selling sales agents. The Legislative Budget Board estimated couriers in Texas accounted for about \$173 million in fiscal year 2023, which represents more than 9 percent of TLC's draw game sales.¹

Couriers work with licensed lottery retailers in Texas using two primary operational models: affiliated partnership and shared company ownership.

- **Affiliated partnership.** Couriers partner with major licensed lottery retailers to purchase tickets at specific retail locations for customer orders. The partnership allows the courier to conduct services at certain brick-and-mortar lottery retail locations and presents licensed retailers with the opportunity for increased sales. One of the biggest partnerships nationally is between the courier Jackpocket and the retailer Circle K.
- **Shared company ownership.** Couriers can wholly own a licensed lottery retailer as a subsidiary company or hold a controlling interest in the retailer subsidiary. For example, Winners Corner TX, LLC in Austin has the highest sales of lottery tickets in the state, with over \$127 million in sales during 2023, and operates as a licensed lottery retailer in other states as well.² According to the Office of the Comptroller of Public Accounts and Texas Secretary of State, Jackpocket courier company wholly owns Winners Corner and controls 100 percent of Winners Corner's stock market shares. Additionally, the CEO of Lottery Now, a parent company that operates the lottery courier website Mido Lotto, owns and operates the TLC-licensed retailer Hooked on Montana in Colleyville. In 2023, Hooked on Montana was a top lottery retailer in Texas with over \$15 million in ticket sales. ALTx Management was licensed as a Texas lottery retailer in January 2017 and, according to news outlets, has financial ties to Lottery.com, a Texas-based courier headquartered in Spicewood.³

In September 2024, the Sunset Commission directed Sunset staff to study the regulation of lottery couriers.⁴ Sunset staff did not evaluate the legality of couriers in Texas. However, in response to a request from a Sunset Commission member, the Office of the Attorney General (OAG) provided informal guidance suggesting that even though couriers may violate various prohibitions in the State Lottery Act, any determination of their legality would require a fact-specific inquiry since the individual operation of each business varies widely. The textbox on the following page provides additional highlights from the OAG's informal guidance.

OAG Informal Courier Guidance

- Couriers may violate certain prohibitions in the State Lottery Act, including bans on group purchases, pooling arrangements, and offers for compensation to claim the prize of another person.
- Because couriers do not necessarily rely on telephonic functions, current prohibitions on a person playing a lottery game by telephone would most likely not prohibit couriers.
- TLC has broad statutory authority to exercise strict control and close supervision over all Texas Lottery games, but little to no case law exists interpreting the breadth of this authority.
- TLC likely has authority to regulate some aspects of courier services in the state, such as implementing more stringent requirements on age and identity verification at the point of sale and enacting rules regarding information gathering for sales agents that associate with couriers.
- TLC currently does not have authority to license couriers as it does lottery sales agents.

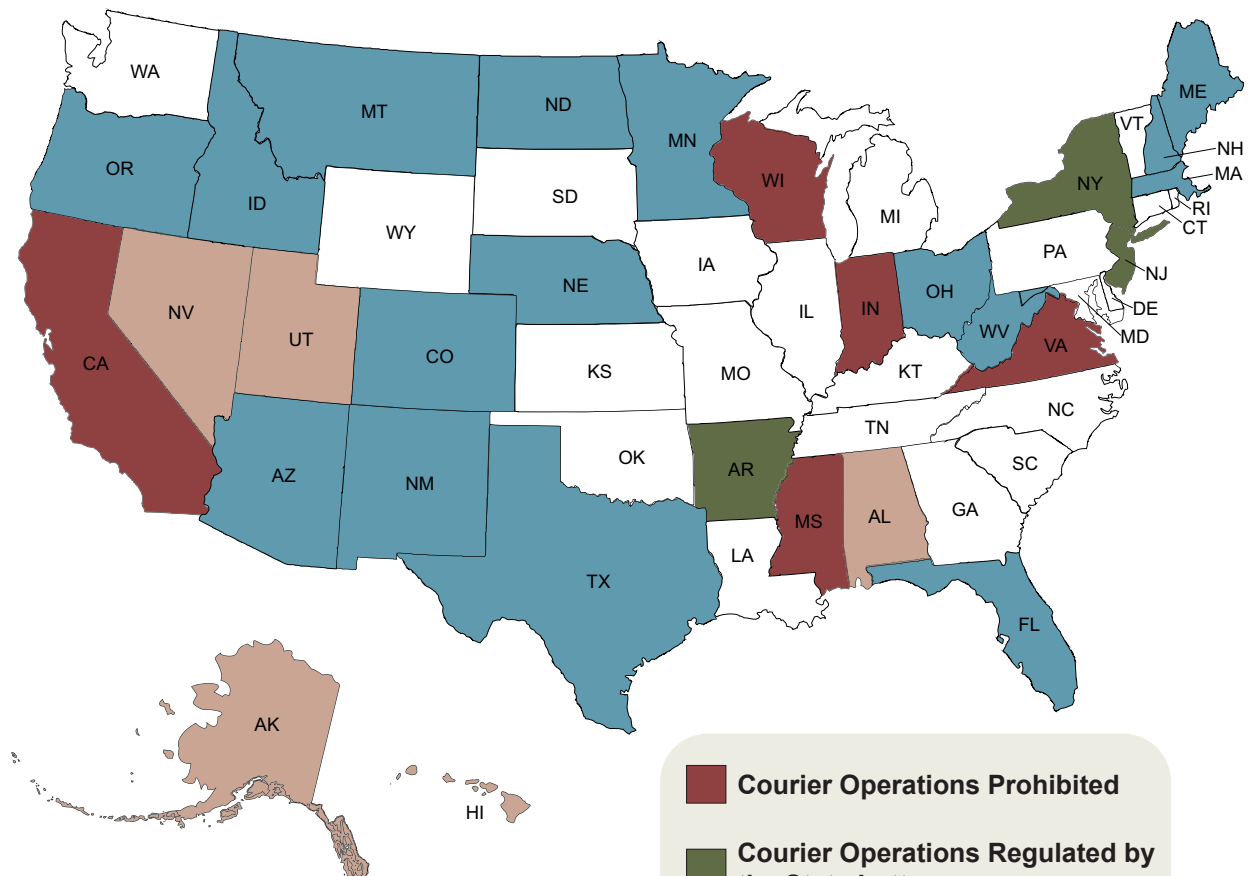
In August 2024, TLC formed an agency working group headed by the enforcement director and staff from its Lottery Operations, Office of the Controller, Governmental Affairs, and Legal Services divisions to examine courier activity in Texas, keep the commission and Legislature updated on developments in the field, and review national courier regulations and prohibitions. TLC provided Sunset and legislative staff with a draft of frameworks for the potential regulation or prohibition of couriers in December 2024.

Findings

States' legal approaches to couriers vary widely, and the legal landscape is evolving.

As of November 2024, Sunset staff identified 19 states where lottery couriers operate, as illustrated in the map on the following page. Of those states, only three state lotteries regulate couriers: New Jersey, New York, and Arkansas. In the remaining 16 states, couriers operate without regulation or oversight by the state lottery. Some states establish oversight of couriers through other means. For example, the Minnesota Department of Public Safety defines couriers as “lottery service businesses” and establishes certain requirements and prohibitions for these businesses in statute.⁵ Other states have prohibited courier activity altogether but using different approaches. Indiana prohibits couriers through rule, Wisconsin and Virginia have statutes that outright ban couriers, and California and Mississippi attorneys general issued legal opinions concluding that courier operations violate current state statute.⁶

While couriers have been operating in the United States for over a decade, the recent growth of courier activity and potential impacts of expanded services have caused states to question their legality. For instance, over just the last four years, three states — California, Mississippi, and South Carolina — issued legal opinions on courier services in response to inquiries about their legality.⁷ In 2021, the Colorado state auditor found the courier sales model may not be consistent with the statutory framework for selling lottery tickets.⁸ In 2021 and 2024, Florida's Office of Program Policy Analysis and Government Accountability found the legislature may wish to consider authorizing or prohibiting couriers, and in 2023 Arkansas established its process to register couriers.⁹

2024 Lottery Courier Operations

-  **Courier Operations Prohibited**
-  **Courier Operations Regulated by the State Lottery**
-  **Courier Operations Unregulated by the State Lottery**
-  **No State Lottery**
-  **Courier Activity and Regulations Unknown**

State lotteries that regulate couriers use different models and have different regulatory requirements.

The three state lotteries that regulate couriers — New Jersey, New York, and Arkansas — all define couriers differently, as detailed in the accompanying textbox, and their regulatory approaches vary. New Jersey has a detailed statutory framework that guides its regulation while New York and Arkansas authorize their regulatory agency to promulgate rules.¹⁰

Courier Definitions

New Jersey: A person or business entity that is registered with the state to purchase lottery tickets on behalf of individuals within the state and deliver those tickets to individuals as a for-profit service.

New York: A person licensed as a vendor to carry out transactions as an agent for customers.

Arkansas: An entity that provides services including the delivery, conveyance, or assignment of any written, printed, or published devices for consideration with the purpose of facilitating participation in the lottery.

These states rely on licensure or registration to regulate couriers. The *License vs. Registration* textbox explains the difference between these levels of regulation. States use these terms differently, evidenced in how New Jersey and Arkansas both require registration but with vastly different requirements.¹¹ Other significant differences exist between state regulations. New York allows couriers to offer both draw and scratch lottery tickets, but New Jersey and Arkansas only allow couriers to offer draw tickets. New York and New Jersey directly regulate couriers and can impose penalties on both the courier and its affiliated lottery retailer if the courier is out of compliance with regulations. Meanwhile, Arkansas regulates couriers through their affiliated licensed retailer and can only impose penalties on the retailer.

License vs. Registration

In general, a license is the most stringent regulatory approach and typically requires specific qualifications to conduct business in a state. Registration is usually a lower level of regulation focused simply on identifying who is conducting business in the state.

In Texas, statute defines “license” to include the whole or part of a state agency permit, certificate, approval, registration, or similar form of permission required by law. However, in practice registration requirements may or may not closely resemble licensing requirements.

The table on the following page summarizes the variations in regulatory requirements between New Jersey, New York, and Arkansas. For comparison, the table also summarizes TLC’s proposed requirements for couriers should the Legislature decide to regulate them as well as the existing regulatory requirements for licensed lottery retailers in Texas. Appendix A provides additional detailed information on the regulatory requirements in each state that regulates couriers and TLC’s current and proposed requirements.

Courier Regulatory Requirements Summary

Regulation	New Jersey Couriers	New York Couriers	Arkansas Couriers	TLC's Proposed Courier Regulations	Texas Licensed Retailers
License or registration required	✓ (registration)	✓ (license)	✓ (registration)	✓ (registration)	✓ (license)
Scratch ticket sales authorized		✓			✓
Draw ticket sales authorized	✓	✓	✓	✓	✓
Ticket ordering requirements	✓	✓		✓	✓
Ticket prize redemption requirements	✓	✓		✓	✓
Ticket delivery and retention requirements	✓	✓		✓	
Restrictions on relationships between couriers and licensed sales agents/retailers	✓		✓	✓	
Background checks	✓	✓		✓	✓
Geolocation requirements	✓	✓	✓	✓	
Physical location requirements	✓	✓		✓	✓
Age verification requirements	✓	✓	✓	✓	✓
Third-party testing requirements	✓	✓		✓	
Data collection requirements	✓	✓		✓	
Regulatory fees				✓	✓
Insurance requirements	✓	✓		✓	✓
Bonds or other financial protections	✓			✓	✓
License/registration renewal	✓	✓		✓	✓
Advertising/trademark limitations	✓	✓		✓	
Inspections and audits	✓	✓		✓	✓
Indemnification requirements	✓	✓			
Complaints process	✓	✓		✓	✓
Enforcement, sanctions, penalties applicable	✓	✓	✓	✓	✓
Reporting requirements	✓	✓		✓	✓
Responsible gambling	✓			✓	

Fiscal Implication

The fiscal implication of regulating or prohibiting couriers remains unclear. If couriers were previously operating in a state that later chose to prohibit them, some individuals who were relying on couriers would likely not stop purchasing tickets altogether and instead visit a retailer. Conversely, because couriers conduct their own advertising and marketing, which potentially increases participation by the public, prohibiting couriers could lead to a decline in sales. Any fiscal implication associated with regulating couriers would depend on the regulatory requirements. Sunset staff did not identify any comprehensive analyses of the fiscal impact on states that have either regulated or prohibited couriers.

¹ Texas Lottery Commission, *2022 Annual Report and 2023-2024 Comprehensive Business Plan*, accessed online December 12, 2024, https://www.texaslottery.com/export/sites/lottery/Documents/TxLottery_AnnualReportBusinessPlan2024.pdf.

² Ibid.

³ Eric Dexheimer, “How a pop-up ticket vendor with financial troubles aided in a surefire Texas lotto win,” *Houston Chronicle*, May 7, 2024, accessed online December 12, 2024, <https://www.houstonchronicle.com/news/investigations/article/texas-lottery-game-popup-ticket-vendors-19438550.php>.

⁴ Sunset Advisory Commission, *Texas Lottery Commission Staff Report with Commission Decisions*, p. A4, accessed online December 12, 2024, <https://www.sunset.texas.gov/public/uploads/2024-09/Texas%20Lottery%20Commission%20Staff%20Report%20with%20Commission%20Decisions.pdf>.

⁵ Minnesota Statutes, Chapter 299L, Section 9, <https://www.revisor.mn.gov/statutes/cite/299L.09>.

⁶ Indiana Administrative Code, Title 65, Article 3, Rule 2, Section, <https://beta.iar.iga.in.gov/code/2025/65/3#65-3-2-2>; Wisconsin Statutes, Chapter 565, Section 17, Subsection 1m, <https://docs.legis.wisconsin.gov/statutes/statutes/565/17/1m>; Code of Virginia, Section 58.1-4014, <https://law.lis.virginia.gov/vacodepopularnames/state-lottery-law/>; California Office of the Attorney General, AG Opinion, Bonta (May 12, 2022), https://oag.ca.gov/system/files/opinions/reports/May%2C%202022_1.pdf; Mississippi Attorney General, AG Opinion, Fitch (February 8, 2024), <https://attorneygenerallynnfitch.com/wp-content/uploads/2024/02/J.England-February-8-2024-Lottery-Ticket-Couriers.pdf>.

⁷ South Carolina Office of the Attorney General, AG Opinion, Wilson (April 17, 2024), <https://www.scag.gov/opinions/opinions-archive/opinion-on-whether-a-lottery-ticket-delivery-service-may-operate-legally-in-south-carolina/>.

⁸ Colorado Office of the State Auditor, *Colorado Lottery Performance Audit*, November 2023, p. 19, https://leg.colorado.gov/sites/default/files/documents/audits/2259p_colorado_lottery_0.pdf.

⁹ Office of Program Policy Analysis and Government Accountability, *Review of the Florida Lottery*, 2021, January 2022, p. 7, <https://oppaga.fl.gov/Products/ReportDetail?rn=22-02>; Office of Program Policy Analysis and Government Accountability, *Review of the Florida Lottery*, 2023, January 2023, p. 7, <https://oppaga.fl.gov/Documents/Reports/24-02.pdf>; Office of the Arkansas Lottery Operational Rules, Section 5.4, p. 6, https://myarkansaslottery.com/sites/default/files/components/files/operational_rules_of_the_arkansas_scholarship_lottery_2023.pdf.

¹⁰ New Jersey Statutes, Title 5, Chapter 9, Section 14.3, https://pub.njleg.state.nj.us/Bills/2016/AL17/11_.PDF; 17 New Jersey Administrative Code, Chapter 20, Subchapter 12 (New Jersey Lottery Commission, *Courier Services*), p. 36, https://njs-cdn.lotteryservices.com/content/dam/portal/pdfs/about_us/comission_legislation/Lottery_Regs_2023.pdf; New York Codes, Rules, and Regulations, Title 9, Subtitle T, Chapter III, Subchapter A, Section 5.0002(h) (Courier Services), p. 860, <https://gaming.ny.gov/system/files/documents/2024/08/new-york-state-gaming-commission-rules-chapter-iii-lottery-updated-2024-07.pdf>; Office of the Arkansas Lottery Operational Rules, Section 5.4, p. 6, https://myarkansaslottery.com/sites/default/files/components/files/operational_rules_of_the_arkansas_scholarship_lottery_2023.pdf.

¹¹ All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 2001.003, Texas Government Code.

APPENDIX A | Courier Regulatory Requirements

States refer to couriers in various ways, including “courier companies” and “courier services.” For simplicity, this document uses the term “courier” throughout to refer to the regulated entity.

New Jersey Courier Regulation	
Regulation	Courier registration through statute and New Jersey Administrative Code. ¹ Courier: a person or business entity that is registered with the state to purchase lottery tickets on behalf of individuals within the state and deliver those tickets to those individuals as a for-profit service.
License or registration required	Couriers must be registered and approved by the New Jersey Division of the State Lottery (division).
Scratch ticket sales authorized	Couriers are prohibited from providing customers with scratch tickets.
Draw ticket sales authorized	Couriers are authorized to provide customers with draw tickets.
Ticket order processing by courier	Ticket processing requires the courier to complete the following steps in order: <ol style="list-style-type: none"> 1. Receive the order and confirms sufficient account funds. 2. Print and purchase ticket(s) from a dedicated terminal. After purchase, the courier deducts the amount of the purchased ticket from the customer's account. 3. Send notice to the customer verifying the purchase, including scans of both the front and back of the ticket(s).
Ticket prize redemption by courier	<p>Ticket redemption requires the courier to complete the following steps, as applicable:</p> <p>Winning ticket prize is under \$600, and the customer pre-authorized the courier to redeem the ticket. The courier must print the customer's full name on the back of the ticket(s), validate the winning ticket(s), and redeem the prize on behalf of the customer. The courier must disburse the full prize value to the customer by crediting the customer's account within two business days of the applicable drawing.</p> <p>Winning ticket prize is under \$600, and the customer did not authorize the courier to redeem the ticket. The courier must print the customer's full name on the back of the ticket(s). The courier then delivers the original ticket(s) to the customer by authorized delivery methods, such as in-person delivery or postal mail. These methods are proposed by the courier and approved by the director during the initial application and registration process.</p> <p>Winning ticket prize is over \$600. The courier must print the customer's full name on the back of the ticket(s), validate the winning ticket(s), attach the validation receipt, and deliver the original winning ticket(s) to the customer by authorized delivery methods. Within 24 hours of the applicable drawing, the courier must also notify the division of the identity of the prize winner, the prize amount, the game name, and the date and time of the drawing. The customer must claim the prize in person at a claim center.</p>
Ticket delivery and retention by courier	<p>Prior to physical ticket delivery, the courier must store each ticket in a secure location that meets the security measures set by the division.</p> <p>The courier is wholly responsible to its customers for lost, damaged, destroyed, stolen, or missing tickets.</p> <p>The division bears no responsibility or liability for locating customers having winning ticket(s) who have not been found by the courier.</p>

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New Jersey Courier Regulation	
Restrictions on/requirements for relationship between couriers and licensed sales agents (known as retailers)	<p>The courier must have a contractual relationship with one or more lottery retailers and provide proof of the contract to the division.</p> <p>The affiliated retailer must maintain a dedicated terminal(s) solely for the purchase of tickets by the courier at the licensed place of business.</p> <p>The division pays all commissions and bonuses to the affiliated retailer.</p> <p>The courier cannot obtain a lottery retailer license. No individual listed on a courier application and no person considered key personnel of a courier may be licensed as a lottery retailer.</p>
Background checks	All key courier personnel must consent to undergo investigations needed to substantiate their moral character and integrity, including fingerprinting of all key employees by the New Jersey Division of Gaming Enforcement.
Geolocation	The courier system must at all times deploy a geolocation software system that allows customer orders for ticket purchases to be made only from within the borders of the state of New Jersey.
Physical location requirements	<p>Courier activities, such as ticket purchasing, must be performed by employees and/or owners physically present in New Jersey.</p> <p>Third-party technology vendors may be located outside the borders of New Jersey.</p> <p>The courier must establish and maintain a trust account in a national or state-chartered banking institution located in New Jersey.</p>
Age verification	The courier must deploy at all times age verification software that only allows access to the courier application or website and purchases by those 18 years of age and older.
Third-party testing requirements	The courier system must undergo independent third-party testing conducted at the prospective courier's expense.
Data collected by courier	<p>The courier system is prohibited from unauthorized data collection that compromises the integrity of customer data and electronic devices.</p> <p>The courier must provide the division with data for each drawing for which the courier provides a ticket, no later than 15 minutes before the applicable drawing.</p>
Regulatory Fees	The New Jersey Lottery does not charge couriers a fee for registration or renewal.
Insurance requirements	The courier must obtain insurance, which may include cyber liability insurance, errors and omissions insurance, and such other insurance coverage the division may require.
Bonds and other financial protections	The courier must post a bond or its equivalent in an amount determined by the New Jersey Lottery Director (director) to cover general business liability. The original bond amount was \$40 million but was later adjusted to \$20 million.
Registration renewal	The director requires registration renewal applications on an annual basis.
Advertising and trademark limitations	<p>The division will monitor all registered courier websites and mobile applications to ensure the couriers adhere to advertisement and trademark rules.</p> <p>The courier cannot use trademarks or other marks owned or controlled by the division or any multistate lottery consortium except with the written expressed approval of the director.</p> <p>An official courier certificate of registration will be issued and displayed in each location where a courier processes tickets. An electronic logo signifying that the courier is officially registered in New Jersey must be prominently displayed on the courier's website and/or mobile application.</p>
Inspections and audits	All courier lottery operations, reports, and records are subject to both random and scheduled financial and/or operational inspections and audits by the division and/or the division's independent auditing firm, as well as any other authorized state or federal entity.
Indemnification requirements	The courier must indemnify and release the state of New Jersey, the division, and their officials and employees from any claims, damages, lawsuits, or costs that arise due to action or inaction by the courier, its employees, or agents.

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New Jersey Courier Regulation	
Complaints	<p>For a two-year period, each courier must maintain a detailed record of each customer complaint and subsequent actions taken by the courier.</p> <p>The courier must display the division's customer service hotline telephone number on the courier website and mobile applications.</p>
Enforcement, sanctions, and penalties	<p>A person operating as a courier or offering services permitted under the Courier Services Act without being registered by the division is guilty of a crime in the third degree.</p> <p>The director can impose fines, penalties, and/or a corrective action plan on couriers in addition to other actions permitted under the law. The director and division are authorized to immediately suspend or revoke a courier's registration status for any violation of the rules.</p>
Reporting requirements	<p>The courier is required to frequently and extensively report financial, sales, and operational information to the division.</p> <p>All courier lottery operations, reports, and records are subject to inspection and audit by representatives of the division, but the reports and records remain confidential for all other purposes besides income tax reporting.</p>
Responsible gambling	<p>The courier applicant must describe, in sufficient detail, its responsible gambling or responsible play plan.</p> <p>The courier's website and mobile application must allow customers to establish responsible gaming limits.</p> <p>Couriers must comply with responsible play guidelines established by the Council on Compulsive Gambling of New Jersey.</p>

New York Courier Regulation	
Regulation	<p>Courier license through New York Codes, Rules, and Regulations.²</p> <p>Courier: a person licensed as a vendor to carry out transactions as an agent for customers.</p>
License or registration required	Couriers must be licensed by the New York State Gaming Commission (commission).
Scratch ticket sales authorized	Couriers are authorized to provide customers with scratch tickets.
Draw ticket sales authorized	Couriers are authorized to provide customers with draw tickets.
Ticket order processing by courier	<p>The courier must complete ticket processing within the applicable timeframes:</p> <p>Draw games: No later than 30 minutes before the relevant drawing cutoff or within 24 hours of the placement of the request. No requests accepted for draw game tickets two hours prior to the drawing cutoff.</p> <p>Instant lottery game ticket: Within 24 hours of the placement of the request. No requests accepted for instant lottery game tickets after the announced end of the game relating to the ticket.</p>
Ticket prize redemption by courier	<p>Ticket redemption requires the courier to complete the following steps, as applicable:</p> <p>Winning draw game ticket prize is under \$600.</p> <p>The courier must validate the winning ticket and redeem the prize on behalf of the courier customer. The prize amount will be disbursed by a credit to the customer's account, direct deposit to the customer's bank account, cash redemption, or by other means approved by the commission.</p> <p>Winning draw game ticket prize is over \$600.</p> <p>After notifying a customer of winning a draw game prize of \$600 or more, the courier must print the prizewinner's full name on the back of the draw game ticket. The courier must deliver the physical winning ticket to the customer and electronically provide the customer with a digitally completed prize claim form, tax withholding form, and any other documentation required to redeem such prize. Additionally, the courier must provide the commission with all relevant information in regard to the prize.</p>

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New York Courier Regulation	
Ticket delivery and retention by courier	<p>While the courier retains a customer's physical ticket prior to delivery, the courier must store each ticket in a secure safe or vault protected by alarm systems, 24-hour central station monitoring, and security cameras recording 24 hours a day.</p> <p>Draw game ticket retention: Each courier must retain each issued draw game ticket until at least 90 days have passed (in which a prize claim may be validly made). A courier holds a ticket in trust for the customer and acquires no ownership interest in the ticket. A courier may destroy a draw game lottery ticket so long as the courier complies with the appropriate retention requirements.</p> <p>Instant ticket delivery: Each courier must deliver each printed instant lottery game ticket to the customer who purchased the ticket.</p>
Restrictions on / requirements for relationship between couriers and sales agents (known as retailers)	<p>The New York lottery courier license and lottery sales agent license are separate licenses. Couriers are required to partner with sales agents and process tickets from designated courier terminals at the associated retailers. However, the commission does not require contracts between a courier and their affiliated retailers and does not maintain oversight of contractual relationships between the courier and retailers.</p> <p>Couriers can obtain a sales agent license and operate a lottery retailer location, with restrictions and requirements specified by the commission.</p>
Background checks	<p>The commission will consider a licensee applicant's background, including conviction of any offense defined in the New York Penal Law.</p> <p>A temporary courier license may only be issued if the commission receives and reviews a fingerprint report from the New York State Division of Criminal Justice Services and Federal Bureau of Investigation that does not indicate any grounds to withhold a temporary approval.</p>
Geolocation	<p>The courier network must prevent requests for courier services by players not physically present in the state of New York at the time of the request.</p> <p>The network must provide a customer with the location of the nearest lottery sales agents using GPS technology.</p>
Physical location requirements	The courier must receive and process requests from customers in a location within the borders of New York. Ticket processing must occur in New York.
Age verification	<p>The courier licensee must explain what types of third-party age verification procedures are implemented to verify that each person registering for an account is not under the age of 18.</p> <p>The courier must have procedures to identify and deactivate accounts created or used by persons under the age of 18 and to exclude such persons from all paid activity offered through the courier's network.</p> <p>The courier must include parental controls procedures to allow parents and guardians to exclude persons under the age of 18 from placing a request for courier services through the courier's network.</p>
Third-party testing requirements	The courier must implement independent third-party testing required by the commission prior to offering services.
Data collected by courier	<p>The courier must provide the commission with data for each drawing for which the courier provides a ticket, no later than 15 minutes before the applicable drawing. Data must include the name of the lottery game, customer name and account number, and all other information the commission deems relevant.</p> <p>The courier must provide the commission with data for each instant game ticket no later than 4:00 a.m. Eastern Standard Time for the prior day's shipments. Data must include the name of the instant lottery game, customer name and account number, and all other information the commission deems relevant.</p> <p>Couriers are prohibited from selling or providing information or data on customers to another person or entity.</p>
Regulatory Fees	The commission does not require courier license application or renewal fees.

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New York Courier Regulation	
Insurance requirements	The courier must obtain insurance, which may include cyber liability insurance, errors and omissions insurance, and other insurance coverage the commission may require. Minimum insurance requirements total around \$29 million.
Bonds and other financial protections	The commission does not require bonds for courier license applicants.
License renewal	The commission requires license renewal applications every five years.
Advertising and trademark limitations	<p>The courier network will offer any promotion, discount, or other marketing feature authorized by the commission and offered by lottery sales agents. The courier may offer, at the licensee's own expense, any promotion, discount, or other marketing feature not inconsistent with the state lottery rules.</p> <p>The courier must provide a complete and accurate copy of all advertisements to the commission within five business days of the advertisement's public dissemination. The couriers must discontinue the public dissemination upon notice from the commission to discontinue an advertisement.</p> <p>The courier cannot use trademarks or other marks owned or controlled by the commission or any multistate lottery consortium without the express approval of the commission.</p>
Inspections and audits	The commission has the authority to conduct, or conduct at a licensee's expense, an audit or review of any of such licensee's financial controls and records.
Indemnification requirements	The courier must indemnify and release the state, the commission, and their officials and employees from any claims, damages, lawsuits, or costs that arise due to action or inaction by the courier, its employees, or agents.
Complaints	For a two-year period, the courier must maintain a detailed record of each customer complaint and the following actions taken by the courier.
Enforcement, sanctions, and penalties	<p>The commission must penalize a courier found to have allowed a minor to use the licensee's network as follows:</p> <ol style="list-style-type: none"> (1) For a first violation, a fine of \$5,000. (2) For a second violation within one year of a violation, a fine of \$20,000. (3) For a third violation within one year of a violation, a fine of \$25,000. (4) For a fourth violation or subsequent violation within one year of a violation, a fine of \$25,000 and further action the commission may deem appropriate. <p>The courier is strictly liable for allowing any prohibited customer to use the courier's network. However, before imposing any penalty or sanction upon a licensee for this violation, the commission must consider any circumstances that the licensee presents as mitigating factors.</p>
Reporting requirements	The courier is required to frequently and extensively report financial, sales, and operational information to the commission.
Responsible gambling	None

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Arkansas Courier Regulation	
Regulation	Courier registration through rules of the Office of the Arkansas Lottery Operations (OAL), retailer rules, retailer contract, and retail license application. ³ Courier: an entity that provides services including the delivery, conveyance, or assignment of any written, printed, or published devices for consideration with the purpose of facilitating participation in the lottery.
License or registration required	Couriers must be registered and approved by OAL.
Scratch ticket sales authorized	Couriers are prohibited from providing customers with scratch tickets.
Draw ticket sales authorized	Couriers are authorized to provide customers with draw tickets.
Ticket order processing by courier	None
Ticket prize redemption by courier	None
Ticket delivery and retention by courier	None
Restrictions on/requirements for relationship between couriers and sales agents (known as retailers)	Couriers must have a contractual relationship with a licensed lottery retailer.
Background checks	None
Geolocation	The courier's geolocation software system is assessed as part of courier registration, according to OAL staff.
Physical location requirements	None
Age verification	The courier's age verification software system is assessed as part of courier registration, according to OAL staff.
Third-party testing requirements	None
Data collected by courier	None
Regulatory Fees	None
Insurance requirements	None
Bonds and other financial protections	None
Registration renewal	None
Advertising and trademark limitations	None
Inspections and audits	None
Indemnification requirements	None
Complaints	None

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Arkansas Courier Regulation	
Enforcement, sanctions, and penalties	The executive director of the OAL has the discretion to suspend or terminate any OAL-licensed retailer whose use of a courier constitutes an operational threat, threat of loss, consumer fraud, deception, or any other factor deemed to negatively impact the appearance of game integrity and fairness or inflict reputational harm to OAL.
Reporting requirements	None
Responsible gambling	None

Texas Courier Regulation		
	TLC Proposed Courier Regulation	Current Lottery Retailer Regulation
Regulation	Proposed courier registration through statute and rule. Courier: a person that, by telephone or through an Internet application or mobile Internet application, accepts and fulfills orders to purchase lottery tickets on behalf of other persons located within the state at the time of ticket order and manages those tickets for those persons as a for-profit service.	Current lottery retailers licensed through statute and rule. Sales agent or sales agency (also known as retailers): a person licensed under the State Lottery Act to sell tickets. ⁴
License or registration required	Couriers would be required to register through TLC.	Lottery retailers must obtain a lottery sales agent license through TLC.
Scratch ticket sales authorized	Couriers would be prohibited from providing customers with scratch tickets.	Licensed retailers are authorized to sell customers both draw and scratch tickets.
Draw ticket sales authorized	Couriers would be authorized only to provide customers with draw game tickets.	Licensed retailers are authorized to sell customers both draw and scratch tickets.
Ticket order processing by courier/licensed retailers	Couriers would be required to clearly present to potential customers the fee associated with the courier prior to confirming an order and may accept as payment for its services only the following forms of payment: <ul style="list-style-type: none"> • United States currency; • A negotiable instrument in the form of a check that meets the requirements of Section 3.104, Business & Commerce Code; • A debit made through a financial institution debit card; • A coupon or voucher issued by TLC for purposes of purchasing a lottery ticket; provided that, a courier must not accept a coupon or voucher issued by the commission as payment; or • A mail order subscription on a mail order subscription form authorized by TLC. 	A licensed retailer can only accept the following as payment for tickets: <ul style="list-style-type: none"> • United States currency; • A negotiable instrument in the form of a check that meets the requirements of Section 3.104, Business & Commerce Code; • A debit made through a financial institution debit card; • A coupon or voucher issued by TLC for purposes of purchasing a lottery ticket; or • A mail order subscription on a mail order subscription form authorized by TLC. An offense under this section is a Class C misdemeanor. ⁵

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Texas Courier Regulation		
	TLC Proposed Courier Regulation	Current Lottery Retailer Regulation
Ticket prize redemption by courier/licensed retailers	Couriers would be permitted to redeem a lottery ticket on behalf of a customer — if the ticket prize is less than \$600 — in a secure manner. A customer would also always have the option to obtain the ticket for the purpose of redemption. The courier would be required to notify a customer of a winning ticket within 24 hours of the drawing or within 24 hours of purchase for draw tickets. The courier would be prohibited from retaining any prize winnings as a fee for compensation. A courier would be required to deliver a physical winning ticket with a prize of \$600 or more, or any other ticket requested by the customer, in a timely manner that is secure for the customer.	A customer can redeem a winning ticket for an amount less than \$600 at any licensed retailer location or any claim center. To claim a draw game prize of \$600 or more, the claimant must present the winning draw game ticket to TLC at a claim center. ⁶
Ticket delivery and retention by courier	Couriers would be permitted to store a ticket on behalf of a customer if the courier provides an electronic representation of the ticket purchased with the numbers, dates, and barcodes of the draw game ticket shown on the representation. Couriers storing a ticket on behalf of a customer would be required to maintain a secure database of all stored lottery tickets which are linked to the physical ticket	None
Restrictions on/requirements for relationship between couriers and sales agents (known as retailers)	Couriers would be required to have a contractual relationship with one or more retailers. The associated retailer would be required to maintain a dedicated terminal(s) at the licensed location. The dedicated terminal(s) would be configured solely for the purchase of tickets by the courier on behalf of that courier's customers, only be used for generating tickets for Texas Lottery draw games, and not be eligible for any TLC-approved promotions.	None
Background checks	Couriers would be subject to fingerprinting background checks through Texas Department of Public Safety (DPS). Not later than the first anniversary after the date of each license renewal, TLC would obtain criminal history record information maintained by DPS on a courier whose license is renewed. DPS would provide any change in information to TLC regarding those subject to background investigations when the department learns of the change.	TLC conducts fingerprint background checks through DPS. ⁷ Not later than the first anniversary after the date of each license renewal, TLC must obtain criminal history record information maintained by DPS on a retailer whose license is renewed. DPS must provide any change in information to TLC regarding those subject to background investigations when the department learns of the change. ⁸
Geolocation	Couriers would be required to employ appropriate geolocation functionality approved by TLC and would be prohibited from purchasing tickets for a customer physically located in another state at the time of ticket order.	None

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Texas Courier Regulation		
	TLC Proposed Courier Regulation	Current Lottery Retailer Regulation
Physical location requirements	<p>Couriers would be required to have a contractual relationship with one or more licensed retailers who would maintain dedicated terminals at the licensed location for use of the courier's services.</p> <p>The dedicated terminals would not be eligible for participation in any TLC-related incentives and would not be enabled for any TLC approved promotions.</p>	<p>TLC must consider whether a retailer location is fixed and permanent before issuing a retailer's license.</p> <p>Other requirements for retailer locations:</p> <ul style="list-style-type: none"> • Cannot be a location licensed for bingo. • Cannot be on land owned by the state of Texas. • Cannot be a location for which a person has certain Texas Alcoholic Beverage Commission retailer's permits.⁹
Age verification	<p>Couriers would be required to employ appropriate age verification functionality approved by TLC and would be prohibited from providing services to any person younger than 18 years of age. It would be a Class C misdemeanor to intentionally or knowingly sell a lottery ticket to an individual younger than 18 years of age.</p> <p>An individual who is younger than 18 years of age would commit an offense and be subject to a fine of up to \$250 if the individual:</p> <ul style="list-style-type: none"> • Purchased a ticket or ordered courier services. • Falsely represented the individual to be 18 years of age or older by displaying evidence of age that is false or fraudulent or misrepresented in any way the individual's age in order to purchase a ticket or order courier services. <p>A person 18 years of age or older would be authorized to purchase a ticket to give as a gift to another person, including an individual younger than 18 years of age.</p>	<p>A person must be 18 years or older to purchase a Texas Lottery ticket. Licensed retailers must verify the age of every person with whom they conduct a lottery transaction. It is a Class C misdemeanor to intentionally or knowingly sell a lottery ticket to an individual younger than 18 years of age.</p> <p>An individual who is younger than 18 years of age commits an offense and is subject to a fine of up to \$250 if the individual:</p> <ul style="list-style-type: none"> • Purchases a ticket. • Falsely represents the individual to be 18 years of age or older by displaying evidence of age that is false or fraudulent or misrepresents in any way the individual's age in order to purchase a ticket. <p>A person 18 years of age or older may purchase a ticket to give as a gift to another person, including an individual younger than 18 years of age.¹⁰</p>
Third-party testing requirements	TLC would adopt rules requiring independent third-party testing of a courier's random number generators by a laboratory approved by the lottery operations director.	None
Data collected by courier	Couriers would be required to safeguard the personal information, including debit card numbers, and properly verify the age and physical location of customers using the service in accordance with rules adopted by TLC.	None
Regulatory Fees	The executive director would set the application fee at an amount that is at least sufficient to cover the costs incurred by the lottery operations division and by DPS to process the application.	<p>The executive director sets the application fee at an amount that is at least sufficient to cover the costs incurred by the division and by DPS to process the application.¹¹</p> <p>The current fee is \$125.00 for a retailer's first licensed location and \$50.00 for each additional location with the same Tax ID and bank account.¹² The renewal fee is \$15 per location.¹³</p>

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Texas Courier Regulation		
	TLC Proposed Courier Regulation	Current Lottery Retailer Regulation
Insurance requirements	Couriers would be required to post a cash bond, surety bond, letter of credit, certificate of deposit, or other security approved by the executive director for the protection of its customers and provide proof of such security to TLC. The amount of the security would be determined by the executive director and be required to reflect the possible losses to customers from the operation of courier services.	The executive director has the authority to require licensees have insurance, but no requirement exists in rule, and TLC does not require insurance from retailers in practice. ¹⁴
Bonds and other financial protections	<p>Couriers would be required to post a bond or its equivalent in an amount as determined by the executive director and as set forth in the courier registration application to cover general business liability and provide proof of protection to the division. Couriers would be required to bond all courier employees and provide proof to the division.</p> <p>Couriers would be required to establish and maintain a trust account for the benefit of its customers. The balances in the customer trust account would be required to, at all times, be sufficient to pay all monies deposited by customers for the purchase of tickets, including all customer prizes won under \$600 and claimed by a courier on behalf of customers.</p>	<p>A licensed retailer must pay into a fund to reimburse TLC for losses from the operation of retailers.¹⁵ The payment is \$25 per location.</p> <p>High-risk applicants for retailer licenses must post certificates of deposits (CDs) in the agency's name to protect the state against financial loss. CDs must remain in place for a 12-month period unless the retailer experiences any nonsufficient funds transfers before the end of the 12 months, in which case the period is extended an additional 12 months.</p>
License or registration renewal	Courier registration would be renewed every two years. The executive director would set the fees for registration renewal in an amount at least sufficient to cover the cost of processing the renewal.	Retailer licenses must be renewed every two years. ¹⁶
Advertising and trademark limitations	<p>Any electronic advertising and/or messaging to courier customers would be required to comply with the Texas Lottery advertising sensitivity guidelines.¹⁷</p> <p>The executive director would be authorized to order a courier to cease any promotion, discount, or other marketing feature that the executive director deems to be not in the best interests of the lottery, in the discretion of the executive director.</p> <p>Couriers would be required to provide links to Texas Lottery webpages as the executive director may direct from time to time.</p> <p>No courier would be permitted to make any announcement of a winner or prospective winner, whether live or through any media, without the prior written approval of the executive director.</p> <p>No advertising or messaging would be permitted to be sent to courier customers who have suspended or self-excluded his or her account.</p> <p>Couriers would be required to prominently display documentation of their TLC registration on their website or mobile application.</p>	None

Appendix A

Texas Courier Regulation		
	TLC Proposed Courier Regulation	Current Lottery Retailer Regulation
Inspections and audits	<p>Couriers would be subjected to the following requirements:</p> <ul style="list-style-type: none"> Any equipment that is located on courier premises could be searched and seized. The database maintaining stored customer tickets could be randomly audited. Records, including all books, papers, or other objects the executive director deems necessary, could be audited. If a licensed retailer, or courier associated with the licensed retailer, refuses to permit an examination, the executive director could summarily suspend the registration of the courier. 	<p>Licensed retailer's records, including all books, papers, or other objects the executive director deems necessary, are subject to audit. If a licensed retailer refuses to permit an examination, the executive director may summarily suspend the license of the retailer.¹⁸</p>
Indemnification requirements	None	None
Complaints	<p>TLC's proposal does not specifically address complaints, but existing provisions would require the agency to maintain a system to promptly and efficiently act on complaints about couriers, if couriers were registered by TLC.</p>	<p>TLC investigates licensee violations in response to complaints. The complaint form is publicly accessible on TLC's website.¹⁹</p>
Enforcement, sanctions, and penalties	<p>Both the couriers and licensed retailer they are associated with would be responsible for the courier's compliance with the law. Retailers would be subject to license suspension or revocation, and couriers would face penalties of up to \$1,000 per day.</p>	<p>Licensed retailers are subject to license suspension or license revocation if they are in violation of the provisions of the State Lottery Act or TLC rules.²⁰</p>
Reporting requirements	<p>TLC rules governing couriers would address reporting requirements. Specifically, TLC would adopt rules requiring:</p> <ul style="list-style-type: none"> The reporting of a retailer's lottery ticket sale proceeds attributable to courier transactions separately from the proceeds of other lottery ticket sales. An annual submission of an anti-money laundering compliance finding statement on a form issued by TLC and duly executed by the courier's designated anti-money laundering compliance officer. 	<p>Licensed retailers must:</p> <ul style="list-style-type: none"> Report receipts and transactions in the sale of lottery tickets.²¹ Maintain records adequate to establish the disposition of each ticket provided to the retailer, the amounts of money received for the sale of those tickets, and any prizes awarded by the sales agent.²² Report damage to or destruction of tickets.²³ Maintain accurate and complete records of all tickets from active and settled packs that have not sold.²⁴
Responsible gambling	<p>TLC would adopt rules requiring a courier to implement responsible gambling measures, including:</p> <ul style="list-style-type: none"> A customer self-exclusion list that provides a mechanism for customers to register to exclude themselves from using the courier. The ability for a customer to set a personal spending limit on a daily, weekly, or monthly basis. 	None

¹ New Jersey Statutes, Title 5, Chapter 9, Section 14.3, https://pub.njleg.state.nj.us/Bills/2016/AL17/11_.PDF; 17 New Jersey Administrative Code, Chapter 20, Subchapter 12 (New Jersey Lottery Commission, *Courier Services*), p. 36, https://njs-cdn.lotteryservices.com/content/dam/portal/pdfs/about_us/comision_legislation/Lottery_Regs_2023.pdf.

² New York Codes, Rules, and Regulations, Title 9, Subtitle T, Chapter III, Subchapter A, Section 5.0002(h) (Courier Services), p. 860, <https://gaming.ny.gov/system/files/documents/2024/08/new-york-state-gaming-commission-rules-chapter-iii-lottery-updated-2024-07.pdf>.

³ Office of the Arkansas Lottery Operational Rules, Section 5.4, p. 6, https://myarkansaslottery.com/sites/default/files/components/files/operational_rules_of_the_arkansas_scholarship_lottery_2023.pdf.

⁴ All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 466.002(9), Texas Government Code.

⁵ Section 466.3052, Texas Government Code.

⁶ 16 Texas Administrative Code, Part 9, Chapter 401, Subchapter D, Section 401.304(d)(2)-(3) (2022).

⁷ Section 466.201, Texas Government Code.

⁸ Section 466.203, Texas Government Code.

⁹ 16 Texas Administrative Code, Part 9, Chapter 401, Subchapter B, Section 401.153 (2021).

¹⁰ Section 466.3051, Texas Government Code.

¹¹ Section 466.152(b), Texas Government Code.

¹² Texas Lottery Commission (TLC), “Application for Texas Lottery Ticket Sales License,” p. 6, accessed online December 3, 2024, <https://www.texaslottery.com/export/sites/lottery/Documents/retailers/retailer-app-texas-lottery-ticket-sales-license.pdf>.

¹³ TLC, “Texas Lottery Sales License Renewal Application Instructions,” accessed online December 10, 2024, https://www.texaslottery.com/export/sites/lottery/Documents/retailers/Renewal_App_Instructions.pdf.

¹⁴ Section 466.156, Texas Government Code.

¹⁵ Ibid.

¹⁶ Section 466.158, Texas Government Code.

¹⁷ Section 466.110, Texas Government Code.

¹⁸ Section 466.017, Texas Government Code.

¹⁹ Section 467.111, Texas Government Code.

²⁰ 16 Texas Administrative Code, Part 9, Chapter 401, Subchapter B, Sections 401.158 (2024), 401.159 (2022), and 401.160 (2024).

²¹ Section 466.352(a), Texas Government Code.

²² Section 466.352(b), Texas Government Code.

²³ 16 Texas Administrative Code, Part 9, Chapter 401, Subchapter E, Section 401.362(3) (2023).

²⁴ 16 Texas Administrative Code, Part 9, Chapter 401, Subchapter E, Section 401.363 (2020).

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