

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

TEXAS LOTTERY COMMISSION

AUSTIN, TEXAS

PUBLIC HEARING TO RECEIVE COMMENTS REGARDING THE PROPOSED AMENDMENTS
TO 16 TAC §§401.158 (SUSPENSION OR REVOCATION OF LICENSE), 401.160
(STANDARD PENALTY CHART), AND 401.355 (RESTRICTED SALES)

APRIL 3, 2025

10:00 a.m.

AT

1801 Congress Avenue
George H. W. Bush Building
4th Floor, Board Room 4.300
Austin, Texas 78701

APPEARANCES

GENERAL COUNSEL:	BOB BIARD
RETAILER SERVICES MANAGER:	DAVID VESELKA
PRESIDENT AND CEO, TEXAS FOOD & FUEL ASSOCIATION:	PAUL HARDIN
CHIEF LEGAL COUNSEL, LOTTO.COM; RESPONSIBLE COURIER COALITION:	ROBERT PORTER

PROCEEDINGS

THURSDAY, APRIL 3, 2025 (10:00 a.m.)

MR. BIARD: Good morning. I am Bob Biard, general counsel for the Texas Lottery Commission. It is 10 a.m., well, after 10 a.m., 10:02 on April 3, 2025. With me today is the Lottery Operations Division Retailer Services Manager David Veselka. And the purpose of this hearing is to receive public comment on the recently proposed amendments to the following rules: 16 Texas Administrative Code Sections 401.158, Suspension or Revocation of License, 401.160, Standard Penalty Chart, and 401.355, Restricted Sales.

The purpose of the proposed amendments is to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the Texas Lottery by prohibiting the use of lottery ticket courier services that, by any remote means, such as telephone, Internet application, or mobile application, accept and fulfill, for a fee or compensation, orders to purchase lottery tickets on behalf of another person not present to effect an in-person sale. The Lottery Commission intends to exercise this authority through administrative enforcement proceedings to revoke the lottery ticket sales agent license of a retailer that works in concert with a courier, whether under a common ownership arrangement or otherwise.

In addition to this public comment hearing, the Commission is accepting written comments by mail, email, and facsimile. The written comments should be submitted no later than Tuesday, April 22nd, 2025. Notice of this hearing and the proposal were submitted to the Texas Register on March 5th, 2025. The proposal was officially published in the March 21st, 2025 issue of the Texas Register, and the cite for that

1 is 50 Texas Register 2 -0 -1 -5. There will be a transcript of this
2 hearing posted on the Commission's website, hopefully within the next
3 week. We anticipate bringing this rule proposal to the Commission board
4 for action at its next open meeting, which is currently scheduled for
5 10 o'clock a.m. on Tuesday, April 29th.

6 At this time, I have received two witness affirmation forms
7 from people who wish to speak. If anyone has not turned in a form and
8 they wish to speak, please submit a form now. My legal assistant out in
9 the foyer has those forms for you if you wish to speak. All right then,
10 first we will take Paul Hardin from the Texas Food and Fuel Association.
11 Welcome.

12 MR. HARDIN: Thank you, counsel. My name is Paul Hardin,
13 President and CEO of the Texas Food and Fuel Association, and TFFA
14 represents the roughly 16,500 convenient stores, travel centers, gas
15 stations throughout the state of Texas. Obviously, these retailers play
16 a very crucial role in the lottery system and the ecosystem there, and
17 are responsible for well over two-thirds of all ticket sales, and
18 certainly contribute significantly to the most recent record-breaking 8
19 billion in lottery sales. TFFA supports the proposed rules to revoke a
20 retailers' license for knowingly working with or enabling a lottery
21 ticket courier service to conduct sales online or by phone. I think we
22 can all agree that was the original legislative intent, and that's what
23 we would like to see it back to. Online lottery ticket courier services
24 and the retailers they partner with present a significant risk to the
25 integrity and trusted reputation that the Lottery Commission has built.
26 If consumers lose confidence, then they might move away from lottery
27 purchases altogether. As one of the most regulated industries out there,

1 our folks are subject to 36 state and federal agencies. And that doesn't
2 even include local and county ordinances that they have to comply with.
3 So, our members take their responsibility to comply with state laws and
4 rules very seriously. Our group sells -- our industry sells the most age
5 -restricted products of any industry. And, certainly, we make sure all
6 employees work hard so that they keep all of these products out of the
7 hands of minors. We certainly appreciate the Commission's efforts to
8 address the issue of couriers by adopting rules in February that clearly
9 prohibit online retail sales outside of licensed locations and require
10 buyers to be physically present at the terminal for each transaction.
11 We urge you, the Commission, to adopt these proposed rules and continue
12 to take steps to maintain consumer confidence and public safety by
13 keeping couriers out of the lottery business. With that said, happy to
14 answer any questions, and hope the commissioners do take this to heart
15 as well.

16 MR. BIARD: Thank you very much. All right, no questions. Thank
17 you very much.

18 MR. HARDIN: Thank you for the opportunity. We appreciate it.

19 MR. BIARD: Absolutely. Next, we have Rob Porter, who's here
20 representing Lotto.com as well as the Courier Coalition.

21 MR. PORTER: Good morning. Thank you. As I mentioned, I'm Rob
22 Porter. I'm the Chief Legal Officer of Lotto.com. I'm here both on my
23 own behalf and on behalf of the Responsible Courier Coalition, which
24 includes Lotto.com, Jackpocket and Jackpot.com. These are responsible
25 couriers that have collectively operated with integrity and transparency
26 for years, both in the state of Texas and in roughly one in every three
27 lottery jurisdictions across the country.

1 Yesterday, the Texas Lottery Commission would have received
2 our detailed response to the proposed rules. In the interest of time,
3 I'm not going to go through each and every provision in detail. I trust
4 that the Commission will review and respond appropriately. I want to
5 focus my comments today on my opposition to proposed rules that would
6 ban responsible regulated couriers and cost the jobs of dozens of Texans.
7 I've noticed in your fiscal note that there was, quote, "no anticipated
8 significant financial impact for state or local governments as a result
9 of the proposed amendments." I would respectfully disagree.
10 Collectively, couriers contribute in excess of \$100 million of Texas
11 Lottery sales today that will continue in the future. If this ban is put
12 into place, the state stands to lose hundreds of millions of dollars of
13 funds, education funds that the state relies on, both today and into the
14 future.

15 Texas takes pride for being wide open for business. And we
16 have real concerns that this rule would slam the door shut on responsible
17 courier companies. It's not the right approach. And I'm certainly no
18 opponent to regulation where it makes sense. I'm a former assistant AG.
19 I'm a former general counsel of a state lottery. I understand the value
20 of smart regulations. And there have been regulations that have really
21 done some value in this setting. For example, Colorado Lottery Commission
22 just adopted administrative rules, put through their notice of comment
23 process to put consumer protections on responsible couriers. We think
24 that's an outstanding idea. We fully support it. We would fully support
25 it for Texas as well. We have been asking for regulations for years in
26 every jurisdiction that we operate, we would continue to ask for that
27 here as well.

1 I struggle a bit to understand how we got here. We've always
2 operated with transparency. We've always been an open book with the
3 Lottery to make sure you understand exactly what we're doing and how
4 we're doing it and why exactly what we do is entirely legal. I'm fully
5 aware of the bulk purchase controversy in April 2023. And I won't get
6 into that in detail because it's not necessary. The responsible couriers
7 simply weren't involved. Those tickets were purchased at retail. No
8 responsible courier was involved. We had nothing to do with it. We oppose
9 any effort to try and buy out a jackpot. We opposed it then, we oppose
10 it now.

11 So, let's talk about the concerns that have been raised by
12 the Texas Lottery. I appreciate the policy that's been issued by the
13 Texas Lottery. We've read it in detail. We've certainly tried to respond
14 to it in the formal response that the couriers have given. I would
15 respectfully say that the concerns that have been raised fall into two
16 categories: they either don't have any bearing on responsible couriers,
17 or there are concerns that are theoretical that haven't actually occurred
18 in the state of Texas. So, let me give you an example. For example,
19 there is a prohibition that says courier operations could violate
20 prohibitions on a purchase of a ticket by employees of the TLC or by
21 your system vendors. I read this and I think that -- how does this work
22 in practice? So, I go into a retail store, I stand in line, I order a
23 Powerball ticket and a Texas Two Step, and then I spend 10 minutes
24 filling out a form saying I'm not a Texas Lottery Commission employee,
25 and my wife doesn't work for IGT Texas. That never happens. And the
26 reason it doesn't happen is it's not a restriction on retailers, it's
27 not a restriction on couriers, it's a restriction on the Lottery itself

1 to make sure that people who have responsibility for running the system
2 can't impugn the system in any way. The same is true for the concern
3 that was raised relating to influencing the selection of a winner of a
4 lottery game. Couriers can't do that. Retailers can't do that. Only the
5 Lottery and its system vendors can do it. That restriction, while
6 entirely valid, has nothing to do with responsible couriers and it has
7 nothing to do with the rules that are in place here.

8 Now, there are legitimate concerns that have been raised. I
9 appreciate the ability to have this dialogue both in front of the
10 Commission and in front of the legislature: the concerns about access
11 to minors, the concerns about allowing orders via credit, the concerns
12 regarding the advertising. However, as the Lottery knows, no responsible
13 courier has ever been cited for credit card orders. There have been no
14 documented instances of access by minors to courier systems. There have
15 been no concerns expressed by the Lottery about responsible courier
16 advertising. And the reason for that is we're very careful. We not only
17 follow the guidelines of our licensed states, but also the NASPL
18 Responsible Gaming Guidelines. And, so, while I understand that these
19 could be concerns in other jurisdictions, they haven't been here. There's
20 certainly not a justification for taking this drastic step of banning a
21 lawful practice, the one that has been recognized to be lawful for a
22 period of several years. Again, I appreciate the opportunity to speak
23 to you today. I'm happy to answer any questions you may have. I know
24 this has been a vigorous debate and I would respectfully ask to allow
25 that debate to continue, to allow the legislature to make a determination
26 one way or the other on whether couriers should be regulated or banned,

1 and to pause on this action until that determination has been made by
2 the legislature. With that, I'll take any questions you may have.

3 MR. BIARD: I think we are good, Rob. Thank you very much.

4 MR. PORTER: Thank you very much, Bob.

5 MR. BIARD: We appreciate it. We did receive your written
6 comments.

7 MR. PORTER: I appreciate it. Thank you, sir.

8 MR. BIARD: Thanks. All right. Is there anybody else who would
9 like to speak on the proposal? Okay then, as I said, we anticipate
10 bringing this matter back to the board on the 29th at the regular
11 Commission meeting. And so there will be further discussion and it will
12 be the board's decision how to proceed on this matter. So, I appreciate
13 your attendance and your interest very much. And if there are no more
14 witnesses, we stand adjourned. The public comment hearing is closed.

15 (Adjourned and concluded at 10:16 a.m.)
16
17
18
19
20
21
22
23
24
25
26
27