

# House Bill 3316

Sponsored by Representative TAYLOR

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Deems establishment of lottery game retailer or applicant to be casino when 50 percent or more of annual net income of establishment is, or is projected to be, derived from sale of tickets or shares in lottery games.

## A BILL FOR AN ACT

1  
2 Relating to the Oregon State Lottery; amending ORS 461.300.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 461.300 is amended to read:

5 461.300. (1) **As used in this section:**

6 (a) **“Annual” means a 12-month period selected by the Oregon State Lottery Commission**  
7 **for review of a lottery game retailer’s compensation.**

8 (b) **“Net income” means the total income of a lottery game retailer from the sale of lot-**  
9 **tery tickets and shares plus the on-site, non-lottery, retail sale of products and services and**  
10 **commissions from the retail sale of products and services, minus the pretax costs of the**  
11 **lottery game retailer other than the cost of complimentary products and promotional pro-**  
12 **ducts and the cost of products and services for which the retailer receives a commission.**

13 (c) **“Retail sale of products and services” means the retail sale, by a lottery game**  
14 **retailer, of products and services that are usually sold by, or associated with, the type of**  
15 **business in which the retailer is engaged.**

16 (2) **For the purpose of prohibiting the operation of casinos in this state, the Director of**  
17 **the Oregon State Lottery shall:**

18 (a) **Determine whether an establishment of a lottery game retailer or applicant operates**  
19 **as a casino, or will operate as a casino after the Oregon State Lottery enters into a contract**  
20 **with the lottery game retailer or applicant.**

21 (b) **Terminate the contract with a lottery game retailer, or refuse to enter into a con-**  
22 **tract with an applicant, found to be operating a casino.**

23 (3) **In addition to the requirements imposed by administrative rule of the commission,**  
24 **an establishment of a lottery game retailer or applicant is deemed conclusively to operate**  
25 **as a casino when 50 percent or more of the annual net income of the establishment of a**  
26 **retailer, or the projected annual net income of the establishment of an applicant, is derived**  
27 **from the sale of lottery tickets or shares.**

28 (4) **The commission shall adopt rules establishing a process for reviewing the operation**  
29 **of the establishments of lottery game retailers, and of applicants, to ensure that the estab-**  
30 **lishments do not operate as casinos.**

31 [(1)] (5) The [*Oregon State Lottery*] commission shall adopt rules specifying the terms and con-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 ditions for contracting with lottery game retailers so as to provide adequate and convenient avail-  
 2 ability of tickets or shares to prospective buyers of each lottery game as appropriate for each such  
 3 game. Nothing in this subsection is intended to preclude the lottery from selling tickets or shares  
 4 directly to the public.

5 [(2)(a)] **(6)(a)** The director [*of the Oregon State Lottery*] shall, pursuant to this chapter[,] and the  
 6 rules of the commission, select as lottery game retailers such persons as deemed to best serve the  
 7 public convenience and promote the sale of tickets or shares. A person under the age of 18 may not  
 8 be a lottery game retailer. In the selection of a lottery game retailer, the director shall consider  
 9 factors such as financial responsibility, integrity, reputation, accessibility of the place of business  
 10 or activity to the public, security of the premises, the sufficiency of existing lottery game retailers  
 11 for any particular lottery game to serve the public convenience and the projected volume of sales  
 12 for the lottery game involved.

13 (b) Except when the director recommends, and the commission concludes, that it is reasonable  
 14 and prudent to waive disclosure requirements under this section and that to do so will not jeop-  
 15 ardize the fairness, integrity, security and honesty of the lottery, prior to the execution of any  
 16 contract with a lottery game retailer, the lottery game retailer shall disclose to the lottery the  
 17 names and addresses of the following:

18 (A) If the lottery game retailer is a corporation but not a nonprofit private club as described in  
 19 ORS 471.175, the officers, each director who owns or controls three percent or more of the voting  
 20 stock and each stockholder who owns 10 percent or more of the outstanding stock in such corpo-  
 21 ration.

22 (B) If the lottery game retailer is a trust, the trustee and all persons entitled to receive income  
 23 or benefit from the trust.

24 (C) If the lottery game retailer is an association but not a nonprofit private club as described  
 25 in ORS 471.175, the members, officers and directors.

26 (D) If the lottery game retailer is a subsidiary but not a nonprofit private club as described in  
 27 ORS 471.175, the officers, each director who owns or controls three percent or more of the voting  
 28 stock and each stockholder who owns 10 percent or more of the outstanding stock of the parent  
 29 corporation thereof.

30 (E) If the lottery game retailer is a partnership, joint venture or limited liability company, all  
 31 of the general partners, limited partners, joint venturers, members of a limited liability company  
 32 whose investment commitment or membership interest is 10 percent or more, and managers of a  
 33 limited liability company.

34 (F) If the parent company, general partner, limited partner, joint venturer, stockholder, member  
 35 or manager of a limited liability company is itself a corporation, trust, association, subsidiary,  
 36 partnership, joint venture or limited liability company, then the director may require that all of the  
 37 information required by this paragraph be disclosed for such other entity as if it were itself a lottery  
 38 game retailer to the end that full disclosure of ultimate ownership be achieved.

39 (G) If any member, 18 years of age or older, of the immediate family of any video lottery game  
 40 retailer, or any member, 18 years of age or older, of the immediate family of any individual whose  
 41 name is required to be disclosed under this paragraph, is involved in the video lottery game  
 42 retailer's business in any capacity, then all of the information required in this paragraph shall be  
 43 disclosed for such immediate family member as if the family member were a video lottery game  
 44 retailer.

45 (H) If any immediate family member, 18 years of age or older, of any lottery game retailer, other

1 than a video lottery game retailer, or of any person whose name is required to be disclosed under  
2 this paragraph is involved in the lottery game retailer's business in any capacity, then the lottery  
3 game retailer shall identify the immediate family member to the [Oregon] state lottery, and shall  
4 report the capacity in which the immediate family member is involved in the lottery game retailer's  
5 business if requested by the director. Full disclosure of immediate family members working in the  
6 business may be required only if the director has just cause for believing the immediate family  
7 member may be a threat to the fairness, integrity, security or honesty of the lottery.

8 (I) If the lottery game retailer is a nonprofit private club as described in ORS 471.175, the  
9 treasurer, officers, directors and trustees who oversee or direct the operation of the food, beverage,  
10 lottery or other gambling-related activities of the nonprofit private club and each manager in charge  
11 of the food, beverage, lottery or other gambling-related activities of the nonprofit private club.

12 (J) Any other person required by rule of the commission.

13 (c) Any person required to disclose information under paragraph (b) of this subsection shall  
14 disclose additional information for retail contract approval that the director determines to be ap-  
15 propriate.

16 (d) The commission may refuse to grant a lottery game retail contract to any lottery game  
17 retailer or any natural person whose name is required to be disclosed under paragraph (b) of this  
18 subsection, who has been convicted of violating any of the gambling laws of this state, general or  
19 local, or has been convicted at any time of any crime. The lottery may require payment by each  
20 lottery game retailer to the lottery of an initial nonrefundable application fee or an annual fee, or  
21 both, to maintain the contract to be a lottery game retailer.

22 (e) A person who is a lottery game retailer may not be engaged exclusively in the business of  
23 selling lottery tickets or shares. A person lawfully engaged in nongovernmental business on state  
24 or political subdivision property or an owner or lessee of premises which lawfully sells alcoholic  
25 beverages may be selected as a lottery game retailer. State agencies, except for the state lottery,  
26 political subdivisions or their agencies or departments may not be selected as a lottery game  
27 retailer. The director may contract with lottery game retailers on a permanent, seasonal or tempo-  
28 rary basis.

29 [(3)] (7) The authority to act as a lottery game retailer is not assignable or transferable.

30 [(4)] (8) The director may terminate a contract with a lottery game retailer based on the  
31 grounds for termination included in the contract or commission rules governing the contract. The  
32 grounds for termination must include, but are not limited to, the knowing sale of lottery tickets or  
33 shares to any person under the age of 18 years or knowingly permitting a person under the age of  
34 21 years to operate a video lottery game terminal.

35 [(5)] (9) Notwithstanding subsection [(4)] (8) of this section, when a lottery game retail contract  
36 requires the lottery game retailer to maintain a minimum weekly sales average, the lottery game  
37 retailer may avoid termination of the contract for failure to meet the minimum weekly sales average  
38 by agreeing, prior to termination, to pay the state lottery the difference between the actual weekly  
39 cost incurred by the lottery to maintain the contract and the weekly proceeds that are collected by  
40 the lottery from the sales of that lottery game retailer, less expenses that are dedicated by statute,  
41 rule or contract to other purposes. The director may not terminate the contract of a lottery game  
42 retailer for failure to meet a minimum weekly sales average unless the director first allows the  
43 lottery game retailer an opportunity to make the payment described in this subsection.

44 [(6)] (10) The commission shall adopt by rule an alternative dispute resolution process for dis-  
45 putes arising from a contract with a lottery game retailer that must be included in every contract

1 between the commission and lottery game retailers. The commission shall develop the dispute re-  
2 solution process required by this section in conformity with ORS 183.502.  
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