

the LOTTO REPORT

"Watchdogs of the Texas Lottery"

Publisher
Dawn Nettles

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March 22, 2012

Sunset Commission
Amy Trost
P. O. Box 13066
Austin, Texas 78711

Dear Amy,

Thank you for affording me the opportunity to participate in the Sunset Review of the Texas Lottery. As I explained last November, I have waited 3 years for this review - then when the time came, I found myself in a personal crisis where I could not participate in a timely fashion. So I am extremely pleased that you will still accept my input.

I have read the Staff Report and agree with almost all of it but I find it deficient in the area of legislation muchly needed to protect Texas lottery players [consumers] and is some cases, the state of Texas.

Because I believe the TLC may object to many of my recommendations, I would like the opportunity to be present to debate/discuss the issues at hand. Some may require further explanation and I would appreciate the opportunity to expand and document any such issues.

I will make myself available to you whenever you say.

I pray that these issues will taken seriously and legislation will be passed.

Sincerely,

Dawn Nettles
Publisher

Attachments

Issue 1 - Lottery Retailers/Store Clerks

Various issues need addressing and legislation written

Store clerks steal players winnings and/or their winning tickets: This is a widespread problem that has received a lot of press in the last several years.

While it is true that players should check their own tickets and players should know what they have won, the TLC is failing to recognize the mindset of the vast majority of the players.

These players are not playing the games of Texas for fun and entertainment as you and I might do - rather, they are buying these tickets for the sole purpose of “needing” fast money.

Scratch Tickets: Many, many players do not scratch the latex off of the tickets to play the game - they simply scratch the 4 digits on the front of the ticket then ask store clerks to scan them to see what, if anything, they’ve won.

Online Tickets: Many, many players buy 10, 20, 50, 100 online tickets each night then they return to the store the next day to have them checked by the store clerk. They don’t have the time to check their numbers and most of them will tell you that they don’t even know what numbers were drawn. They don’t trust the ticket checkers and want them scanned by the “big, official terminal.”

Store clerks identify these people quickly and subsequently take advantage of the players. They will tell a player that he won \$3 when in reality, he won \$20.

The clerk then pockets the balance of the players winnings. Store clerks have seen too many people throwing away large sums of money and have come to resent the foolish spending of lottery players. These players are easy prey and store clerks take advantage of it.

I identified such a clerk myself while in Austin one day. I reported it to the TLC.

The stealing of players winnings is actually costing the state of Texas money. This is because players win then turn around and buy more tickets. What players win, they give back. With clerks taking the players winnings, the clerk keeps the cash to pay his bills and the money is not spent on lottery products.

Recommendations:

1. Write legislation to prohibit clerks from checking/scanning players tickets.

Clerks should scan these tickets ONLY when the players says, “*I have a winning ticket I’d like to cash in.*” Otherwise, he should not touch their tickets.

If a player wants his tickets scanned, then the clerk should instruct him to use the ticket checkers found in each store.

2. Write legislation forbidding clerks from purchasing lottery products where they work. Many states have written this law. This would prevent unnecessary claim problems and legal and investigative expenses to taxpayers.

3. Write legislation forbidding clerks from playing the games of Texas while working.

While the Texas Lottery denies and reports that players do not spend excessively, this is clearly not true. Players purchase scratch tickets like people play slots. By this I mean they’ll buy 5 tickets, then 5 more, then 5 more, etc. As clerks watch and observe the purchases, they are thinking that there has to be a winner “soon” so the clerk takes the next few tickets for himself.

The player is in the store playing so when he goes back to the counter to buy more, he notices that the number sequence is suddenly off and tickets are missing from the pack. He also knows no one else has been in the store so the clerk is the only one who could’ve taken the next tickets. Often times, the clerk admits that he has bought some of the tickets for himself and will not sell them to the player.

Not only has this been reported to me but I have personally witnessed and heard clerks brag about their purchases and their success at winning.

Clerks also play 8-Liners that have been “fed.” They’ll actually post an “Out of Order” sign on the machine to keep others off until they can play it themselves.

Some corporate chains have rules forbidding clerks from playing the games while working, but this is not widespread and should be written into law to protect consumers.

4. Create a Registry of Approved Lottery Clerks and require all clerks who sell lottery products to be listed. This should include a background check - the same as it does for Bingo workers. Charge the clerk a fee to cover costs and require it to be renewed every 2 years.

There are a great many felons selling lottery products and they deal with more cash than bingo workers. Because of employment laws, employers who catch these clerks stealing from lottery players do not tell the next prospective employer. Literally, some clerks work as clerks for the sole purpose of taking advantage of lottery players. They move from store to store.

While my remarks may sound harsh, let me say that not all clerks are bad apples. However, there are more bad apples in this field than the state cares to acknowledge. For store clerks, it is far too tempting and far too easy to get away with the actions I've described above.

5. Require the Texas Lottery to hire outside investigators and/or individuals to do sting operations and make findings public.

The seriousness of the theft by store clerks was finally made public by Harvey Cashore (CBC - Canada) who contacted me for a lottery story several years ago. I told him that the biggest and most serious investigative story should be on store clerks who steal winning tickets. His investigative reporting won him many awards and resulted in many states conducting sting operations where they have caught clerks lying and stealing. The day his story aired, he called to thank me for my insight and for putting him onto this angle. It remains a huge story today.

It is my opinion that the Texas Lottery does not want bad press and prefers to keep such things private. Denying that these things happen is not good for the consumer nor the state of Texas. People deserve to be warned against scams and to know what scams are plausible so they can protect themselves.

Unfortunately, it is my belief - from experience and first hand knowledge - that independents must conduct these stings for true findings. If I had the necessary equipment, I could prove this and it wouldn't take me very long.

Issue 2

Independent Studies

The TLC requires entities who are awarded contracts to conduct studies to provide the TLC with a "draft report" before submitting a final report. If the state of Texas wants to know the truth from these required independent studies, then I would strongly urge the state to forbid the TLC from editing the findings.

I have been contacted by two contractors who told me they were forced to lie in their reports and would never bid again for work with the TX Lottery.

Additionally, I was present at a Commission meeting where a “final report” was presented to the Commissioners but the findings were not “expected” and were not “favorable.” Directly after their presentation, I asked for a copy of the report and was given a copy by the University. But that report was jerked away from me by a TLC staff member and he proceeded to write DRAFT on every page before returning it to me.

Subsequently, the University presented another report at a later date that was significantly different than what he originally reported to the Commission.

For the state to spend thousands of dollars in tax payer dollars for independent studies, I would like to think that everyone would want to know the truth so it can be dealt with. This is not the case with these “independent” studies.

Issue 3
- Contacts vs Complaints -
The Texas Lottery Should Accept Complaints by Phone

The Sunset Report addresses complaints but I’m not certain that the you are aware of exactly how the TLC handles complaints so I want to make it clear.

The TLC has two set of records for what I or a consumer would define as a legitimate complaint - one TLC database is called “Contacts” and the other database is called “Complaints.”

Here’s the differences - If a person calls the commission to say that he was not paid correctly by a retailer, he is told that he must put his “complaint” in writing. Many players have no computers and writing a complaint letter is not something they know how to do or will take the time to do.

Ultimately, a written complaint is never received so this complaint is never recorded resulting in no action and fewer complaints recorded. This caller is listed as a “contact” in TLC databases. When a member of the public/legislature asks to see the “complaints” the TLC has received, they will never see them all.

The TLC discriminates on what action to take based on a phone calls from a consumer.

True Example 1: A player calls to report that he had just bought a \$25K winning ticket but the ticket blew out of his hand and is temporarily lost. He has all the pertinent information (ticket, serial & pack numbers, name of game, witnesses, etc) and he had signed the ticket. He's calling - 8 AM - because he wants the Commission to know that if anyone shows up to collect the prize money on this particular ticket - that this is his ticket - not theirs. The Commission initially refused to take the pertinent information from the caller. It required two calls to get them to take the ticket information.

True Example 2: A police department contacts the Texas Lottery to report a 25K winning ticket has been stolen from a private citizen. They have a full confession and are aware that a 3rd party is enroute to a claim center to collect the winnings on this ticket. They wanted the man stopped and the ticket returned to the victim.

The 3rd party arrives at the claim center on time and as reported by the police/detective. Staff has him complete a claim form then tells the fraudulent claimant that there's a computer glitch so they can't issue a check right then. No security is present and they let the man walk out of the claim center.

It took nearly 2 years and a court order for this player to collect her winnings from the Texas Lottery. And, I might add, I took the court order to the claim center but the claim center refused to accept the court order from me. I was on my way back to the Court - as instructed by the Judge - when the TLC calls my cell phone to ask that I please come back with the court order. They would accept it.

True Example 3: A retailer is robbed and calls at 8 AM to report stolen tickets. The Commission spends considerable time to take the retailers information by phone. They void all tickets immediately so no one can collect prize money.

In conclusion, I'd have to say that the TLC is discriminating in what phone calls are important to them and acts on whatever is in their best financial gain.

Issue 4

Disputed & Pending Claims

Something needs to be done about the way the Texas Lottery handles disputed claims. When they have over whelming evidence and they actually know who the rightful owner of the ticket is, they should pay the claim. But here's what they do. They turn the claim into a pending claim until they conduct an investigation. This takes months or even years. Then after they've stalled for as long as they can, they then go for an indictment.

After there is an indictment, then they wait for it to go to trial. The biggest problem lies in that the police do not actively seek an arrest on these people. The police departments simply wait for a traffic violation then they arrest the person and it does move on from there. Sometimes these people are never caught which means the claim is never paid even though the TLC really knows who is entitled to the prize money.

The victims call weekly to inquire about the status of their claim and are told it is "still pending." There is no written record kept of these phone calls.

In the true example 1 above, this claimant not only had the store clerk as his witness that he really bought and lost the ticket, but he had an entire church membership looking the lost ticket, a fire department who turned on city lights for the search, ran ads in the paper, was on the radio and had the FBI present when he got his ticket back.

When he took his ticket to the Dallas Claim Center, they refused to pay it because it appeared to have been tampered with and was weather beaten. He then drove from Dallas to Austin to submit his ticket. They refused to pay it too explaining it would have to go to forensics.

3 months later he calls me for help. After mass media coverage, he collects his winnings.

This should have never occurred.

In true example 2 above, the claim was shown as pending. The TLC conducts an investigation even though a police department had a full confession from the person who stole this ticket. This takes the TLC a full year to conduct.

The TLC submits documents to obtain an indictment only after I contact the TLC about this claim. After an indictment is received, the TLC waited for the fraudulent claimant to be found so the case could go to trial. The TLC is willing to pay only after a Judge has ruled on the rightful owner.

After waiting another 6 to 8 months, I convinced the DA to take this matter before the courts which they did - a property rights hearing.

The Judge could not believe the circumstances surrounding this claim and was shocked that the Texas Lottery would do this to the victims of such crimes. His comments were extremely harsh. He gives me a court order and instructed me to immediately return to him if the claimant did not receive payment on that day. As stated above, the Claim Center initially refused to accept the court order but did within one hour of my leaving.

The claimant did not receive her money that day but did receive it 2 days later. I did not go back to the Judge to report the problems I incurred that day. This might have been a mistake on my part.

In conclusion, something needs to be done with regard to victims being victimized a second time by the Texas Lottery.

Issue 5

Open meeting Public Comment policy changed

Within the last year or so, the Commissioners enforced a new policy for those who may want to comment at a Commission meeting. They are now requiring the visitor to complete a form before 9 am and for each item the visitor will want to address. The problem is that visitors may not know if they have comments until they've heard what was said by the Commissioners. If a visitor hears something said that they know is clearly wrong, the visitor cannot speak unless he's completed the form prior to the meeting.

This policy should be abolished.

Issue 6

Conflict of Interest

The Sunset Report covers this issue and I completely agree. There are too many expenses incurred and contract awards for the wrong reasons - specifically buddy deals.

I would also like to add that there is a serious need for the TLC staff to enforce Conflict of Interest to employees of G-Tech which somehow is overlooked or not reported.

Example: Deborah Graves is a DSM (Irving District) but is directly associated with Express Mart, 5400 S Hulen, Fort Worth - in such a capacity that she terminates employees at the lottery retail location. Management - TLC & G-Tech (George Sanchez) - have completely overlooked this conflict with this high ranking G-Tech employee. (See TWC Appeal #09-886702-3)

Conference calls with TWC were taken on her G-Tech phone, on G-Tech time and in her G-Tech office. Her retail involvement has included free packs of scratch tickets where G-Tech lied to the TLC and caused a Corrective Action Plan to an LSR rep.

Example: G-Tech's LSR reps family members - who reside in their household - have collected prize monies a Claim Center. I do have the paperwork and the name but do not have it as I write this report. I can provide it at a later date.

Example: Gartner issue - I'll say no more on this one.

Issue 7

Keno games not legal in Texas

The Texas Lottery plans to adopt rules for another online game. The game will be a Keno style game - pick 12 numbers from 24 numbers with 4 drawing per day and the cost to play is \$2 per ticket. They are slowly but surely turning our state into one great big casino. *(I was unable to comment on this proposed rule due to my brothers illness so I hope that the legislature puts a halt to this kind of game. It is too much gaming and too expensive for those who actually support the games of Texas.)*

Issue 8

Using Profits To Subsidize Games Operating In The Red Resulting in Less Money Being Transferred to the School Fund

The Sunset Report clearly shows the declining revenues for the online games. The Texas Lottery says it is a cause of "maturity" but this is not the "main" cause of the revenue decline. It is a direct result of game competition, unwanted rule changes, a complete disregard of consumer input and unfair games of chance.

Example: Lotto Texas - What was and should still be, this is the premier game - the game of all games - Texas' Game - if you will. Just since July 31, 2010, the TLC has had to fund \$32.7 million more than what sales supported to pay winners. All in all for Lotto Texas, the TLC has actually over paid winners in excess of \$140 million dollars.

Example: Texas 2 Step - The game is \$2.4 million in the red.

I am not suggesting to do away with these games but I am suggesting that the TLC should have taken immediate action to correct these losses like any other business would have done.

For the record, the losses incurred are not a result of Multi State gaming, rather they are losses resulting from rule changes, failure to listen to the players, claims issues, deceptive scratch tickets, validation errors, and not honoring the face value of prizes.

Legislative Recommendations:

1. Write legislation that would limit the number of games offered for online state run games (5) and limit the number of drawings that could be held each week.
2. Write legislation to put a cap on the odds for each state run game to no more than approximately 60% of the total population. (Excluding Multi State gaming)
3. Write legislation to prohibit any computerized drawings.
4. Write legislation requiring a full accounting to the legislature of prize monies (50% of sales) for each product (game). Each product should be a stand alone business - so to speak - and should pay prizes out of its own earnings. No more robbing Peter to pay Paul at the expense of the School Foundation Fund. The legislature needs to see the true bottom line pertaining to each games prize money.
5. Write legislation requiring - at a minimum - that 50% of sales shall be returned to the players by way of prizes.
6. Write legislation requiring pari-mutuel payouts for all online games - this is the ONLY way to protect both the state and the players (consumers).

Issue 9

Expand the Commission to 5 Members

The Sunset Report has made this recommendation and I completely agree.

Recommendation

I would like to recommend that one member have extensive “lottery playing” experience much like the Bingo experience requirement. I find the biggest flaw is the inability of staff to understand and relate to lottery players. They really don’t have a clue as to what motivates players to spend more money. Staff may be able to run the lottery and satisfy the legislature but their lack of knowledge and understanding players is costing the state potential revenues.

As much as I hate to say this, I have successfully predicted the negative outcome to every game rule change they have made. While the legislature may be satisfied with the revenue generated by the lottery, they are settling for far less than they should or could have received.

Issue 10

Excessive and Unnecessary Spending

The Sunset Report covers this issue too and I certainly agree with tighter controls. The TLC spends too much money in areas that are completely out of line.

For instance, they buy new drawing machines more often than any other state. The maintenance logs do not justify purchasing this often.

Huge legal fee’s are paid in area’s where taxpayer money shouldn’t be spent and for things they don’t need like domain names. For instance, they went after lottotexas.com but didn’t go after texaslotto.com. (This was a personal vendetta.) The tremendous amount of money paid to Dwayne Gotzel for trademark issues is completely out of line and unnecessary.

Avoid Excessive Legal & Investigative Expenses.

The TLC makes players use “ticket checkers” at the claim centers when a player is simply trying to see if he’s already collected his prize money on the particular ticket. Personnel at claim centers will not and/or refuse to check players tickets using the main lottery terminal. So when the ticket checker indicates that the ticket is a winner, the player is **forced** to fill out claim form.

So the innocent player thinks he has not collected on the ticket so he completes the paperwork as instructed by staff.

Then staff sees that the ticket has already been paid and tells the player. Months or years later the player learns that there's an indictment against him for making a fraudulent claim.

Entrapment lies in the fact that the the ticket checker did not tell the consumer that the ticket was "previously paid." Rather the ticket checker told the player, "Winner \$100."

FYI - SST's previously found in the stores did relay the true status (previously paid) messages for players but this function was removed when they installed the new ticket checkers. Clerks do accidentally returned validated tickets to players so when a players finds one in his possession, it is reasonable that he is unaware that he had already cashed the ticket in.

The cost of investigations & legal costs are huge in this area.

The Texas Lottery is going to jump on the above statement and immediately defend themselves by telling you that the retailer keeps the validated tickets therefore they reasonably conclude the player has pulled the ticket out of the "dumpster" and is purposely trying to collect the prize money by claiming he wasn't paid by the retailer. Legal filings by the TLC calls these players "dumpster divers."

By law, the retailer is suppose to **destroy the validated ticket** and keep the validated ticket in the trash behind the counter BUT clerks don't do this.

The attached exhibit - redacted - are winning, validated, whole tickets pulled from a public trash can - cans found next to Texas Lottery Play Stations - and were picked up by me. If you take these tickets to a ticket checker, the ticket checker indicates the ticket is a "winner."

I have literally picked up hundreds of validated tickets and I can assure you, no retailer has ever given me a validated scratch ticket and they are not tickets that I purchased.

Failure by retailers to destroy validated tickets and placing them in public trash cans rather than protected trash cans is another act of entrapment.

Recommendation

1. The Sunset Bill or legislation should require "ticket checkers" to relay an accurate message "previously paid" so as to cut down on excessive legal and investigative costs involving taxpayer money and what I term as entrapment.

2. Store clerks should be fined for failing to destroy validated tickets. There is one exception - some stores are in very bad areas with untrusting customers. If a clerk fears for his safety and the customer is demanding that his winning, validated ticket be returned to him, then there should be no fine imposed on the clerk.

G-Tech Reps Are Dumpster Divers Too

It appears - either the TLC or G-Tech - has issued instructions for G-Tech reps to spend their valuable, limited time in stores tearing up scratch tickets found in the public trash cans. It has also been reported to me that some G-Tech reps pick the tickets up rather than to tear them up. I thought G-Tech employees were forbidden to play the games.

The former TLC play stations did have a slot and a trash can built in so players could discard their paper trash (losing tickets). I've been amazed in watching reps pull the trash cans out, tear up all the tickets found inside, then put the FULL trash can back inside the play station. I always wondered, why didn't that rep just empty the trash can - that's what the retailer does?

Issue 11 - Closed Scratch Games

The Texas Lottery (G-Tech reps) is not consistent in removing tickets issued a close date. In fact, it seems that tickets with no top prizes available remain in the stores longer while high dollar tickets (\$20 & \$50) with top prizes still available seem to be pulled immediately after a close date is issued.

One day I reminded a G-Tech rep to pick up a couple of tickets as they had a close date within the next two weeks and all top prizes had been claimed. He refused to pick the tickets up stating "*there's still lots of low tier prizes available and I want the tickets sold.*"

Twice I've reported stores who were selling closed games and both times I regretted it. A G-Tech rep went to the first store I reported and told the owner that I reported it. Needless to say the owner was mad at me. The second time I reported it was with the the owners permission. In turn, the store owner received a threatening letter from the TLC.

It is the responsibility of G-Tech reps to check the stores inventory and to pick up and order tickets for them. Retailers can't keep track of 60 to 90 scratch tickets and when the ticket is suppose to close or is a closed game.

Retailers depend on the reps to pick up their scratch tickets. Perhaps if the G-Tech reps weren't wasting time tearing up scratch tickets, they would have more time to do their jobs efficiently.

So that you understand why this is an issue - if a player buys a winning ticket worth more than \$599, then he has to go to a claim center to collect. The claim form asks where and when did he buy the ticket and if he writes that it was bought after a close date, then he is not paid his winnings even though the 180 day claim period may still be in effect. Instead the TLC may give him another ticket and subsequently reports this as unclaimed prize money.

Recommendation

Write legislation that once a close date has been issued to a scratch ticket, that all tickets shall be picked up within 14 days. (The contract states G-Tech reps are suppose to be in the stores every 2 weeks. The TLC currently allows 45 days for the reps to pick up all tickets that have been issued a close date.)

Issue 12

Validation Errors & Validation Security

Validation error is defined as a lottery ticket - both online and scratch tickets - where the prize amount the lottery terminal says the ticket is worth is different than the face value of the ticket. I see and hear of this at least 2 to 3 times per week.

The retailer is only able to pay the amount his terminal tells him he can pay. He usually returns the ticket and the receipt to the player and tells him that he has to go to a claim center to collect his rightful winnings.

This is a serious problem because it is too time consuming and costly to go to a claim center to collect an additional \$5, \$10 or \$20 that he had actually won. Most of the time, the player ends up throwing the ticket away because its too much trouble. This results in less play and ill feelings towards the Texas Lottery.

Sci Games use to send an encrypted file to both G-Tech and the Texas Lottery for all scratch tickets printed. After a game closed and after the 180 days had expired for players to claim prizes, TLC's security would use the encrypted file to verify that all prizes paid correctly. Security did identify validation errors.

The encrypted file was also used to explain why a top prize wasn't claimed ... ie never sold, sold but never claimed, stolen pack, destroyed by fire, etc. After Mr. Grief became the Director (Acting), this procedure was abolished and most of the security force was terminated at will.

To obtain the above described information, we now count on G-Tech to provide the information. No one is really watching over G-Tech in this area.

Issue 13

Complying With Consumer Law on Deceptive Advertising

State agencies do not have to adhere to consumer laws when it comes to advertising. The Texas Lottery claims they adhere to the law - even though they are not required to - but they don't - in my opinion. Because the TLC is unlike other state agencies in that they sell products directly to the consumers, their advertising should be completely truthful and they should be required to adhere to state laws.

Recommendation:

Write legislation requiring them to adhere to Consumer Protection laws in advertising.

Exhibit Referenced - Issue 10

As stated on page 11, “The attached exhibit - redacted - are winning, validated, whole tickets pulled from a public trash can - cans found next to Texas Lottery Play Stations - and were picked up by me. If you take these tickets to a ticket checker, the ticket checker indicates the ticket is a “winner.”

I have redacted information from these tickets because I do not want the retailer who produced the validations slips for me to lose his license or be threatened for returning the tickets to me. Due to a number of things the TLC and G-Tech reps have done to me in the field, I do not trust them.

What is important for members of the Legislature to see is:

The winning tickets are whole, not destroyed as required by law

The ticket was “previously paid by other”

The validation slip shows the ticket # which corresponds with each ticket. This would be the number before the xxxxx

These tickets were picked up at various retail locations and in most cases, were found with a number of other winning tickets.

The tickets are real and anyone could have picked them up to become another victim of the Texas Lottery.

The ticket checkers still show they are all winners - not previously paid.

I will be more than happy to bring these tickets to Austin where we can scan them together.

I will not give these tickets to the Texas Lottery Commission.