

By: Deshotel

H.B. No. 477

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation of casino gaming in certain state coastal
3 areas to provide additional money for residual windstorm insurance
4 coverage and catastrophic flooding assistance in the coastal areas;
5 requiring occupational licenses and certifications; authorizing
6 fees; imposing a tax; creating criminal offenses and providing
7 other penalties.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. Subtitle A, Title 13, Occupations Code, is
10 amended by adding Chapter 2005 to read as follows:

11 CHAPTER 2005. CASINO GAMING

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 2005.001. DEFINITIONS. In this chapter:

14 (1) "Casino game" means any game of chance, including
15 a game of chance in which the outcome may be partially determined by
16 skill or ability, that involves the making of a bet, as defined by
17 Section 47.01, Penal Code.

18 (2) "Casino gaming" means the conduct of casino games
19 authorized under this chapter.

20 (3) "Casino gaming manager" means a person certified
21 under this chapter to manage casino gaming operations at a location
22 authorized under this chapter to conduct casino gaming in this
23 state.

24 (4) "Commission" means the Texas Lottery Commission.

1 (5) "Executive director" means the executive director
2 of the commission.

3 (6) "Gaming vendor" means a person licensed under this
4 chapter to provide, maintain, manufacture, distribute, sell, or
5 lease casino gaming equipment and services to a person authorized
6 to operate casino gaming in this state.

7 Sec. 2005.002. APPLICABILITY OF FEDERAL LAW. All shipments
8 of casino gaming equipment and devices into, out of, or within this
9 state in connection with casino gaming are legal shipments of the
10 devices and are exempt from the provisions of 15 U.S.C. Sections
11 1171-1178 prohibiting the transportation of gambling devices.

12 SUBCHAPTER B. ADMINISTRATION

13 Sec. 2005.051. POWERS AND DUTIES OF COMMISSION AND
14 EXECUTIVE DIRECTOR. (a) The commission and executive director
15 have broad authority and shall exercise strict control over and
16 closely monitor casino gaming authorized under Sections 47a and
17 47b, Article III, Texas Constitution, to protect the public health,
18 welfare, and safety and ensure integrity, security, honesty, and
19 fairness in the conduct and administration of casino gaming.

20 (b) The executive director may contract with or employ a
21 person to perform a function, activity, or service in connection
22 with casino gaming as prescribed by the executive director.

23 (c) The commission shall as necessary to protect the public
24 health, welfare, and safety:

25 (1) monitor casino gaming operations on a continuing
26 basis;

27 (2) establish standards for:

1 (A) the operation of casino gaming;

2 (B) the provision of casino gaming equipment and
3 services; and

4 (C) the establishment and maintenance of casino
5 gaming facilities; and

6 (3) inspect and examine all gaming facilities,
7 equipment, services, records, and operations to ensure compliance
8 with the standards established by the commission.

9 Sec. 2005.052. RULES AND PROCEDURES. (a) The commission
10 shall adopt all rules necessary to supervise casino gaming in this
11 state, administer this chapter, and ensure the security of casino
12 gaming operations in this state.

13 (b) The commission shall establish procedures for the
14 approval, monitoring, and inspection of casino gaming operations as
15 necessary to protect the public health, welfare, and safety and the
16 integrity of this state and to prevent financial loss to this state.

17 Sec. 2005.053. FEES. The commission shall establish the
18 application, license, certification, and license and certification
19 renewal fees for each type of license and certification issued
20 under this chapter in amounts reasonable and necessary to cover
21 this state's costs incurred in the administration of this chapter
22 and the regulation of casino gaming.

23 Sec. 2005.054. ANNUAL REPORT. The commission shall make an
24 annual report to the governor, the comptroller, and the legislature
25 that provides a summary of casino gaming revenues and expenses for
26 the state fiscal year preceding the report. The report must be in
27 the form and reported at the time provided by the General

1 Appropriations Act.

2 Sec. 2005.055. INVESTIGATIONS. The commission may
3 investigate a violation or alleged violation of:

4 (1) this chapter or rules adopted under this chapter
5 by any person; or

6 (2) the penal laws of this state in connection with the
7 administration of this chapter, the regulation of casino gaming, or
8 the conduct of casino gaming by a person authorized to operate
9 casino gaming under this chapter.

10 SUBCHAPTER C. CASINO GAMING

11 Sec. 2005.101. CASINO GAMING OPERATOR LICENSE. A person
12 may not conduct casino gaming in this state unless the person holds
13 a casino gaming operator license issued under this chapter.

14 Sec. 2005.102. ALLOCATION OF CASINO GAMING OPERATOR
15 LICENSES. The commission shall award to applicants not more than
16 nine casino gaming operator licenses at locations in this state
17 within 200 miles of the Gulf of Mexico as follows:

18 (1) one license in each of the counties of Galveston,
19 Jefferson, and Nueces, provided the license issued in Jefferson
20 County is for a location approved by the commissioners court of the
21 county that has interstate access and other appropriate
22 infrastructure;

23 (2) three licenses in Bexar and Harris Counties to
24 persons who are licensed to conduct pari-mutuel wagering on horse
25 and greyhound races in one of those counties, provided not more than
26 two licenses are awarded in either county; and

27 (3) one license in each of three first tier coastal or

1 second tier coastal counties, as those terms are defined by Section
2 2210.003, Insurance Code, to persons who are licensed to conduct
3 pari-mutuel wagering on horse or greyhound races in one of those
4 counties.

5 Sec. 2005.103. CERTIFICATES REQUIRED. (a) A person may not
6 provide, maintain, manufacture, distribute, sell, or lease casino
7 games or casino gaming equipment or services for use in this state
8 unless the person holds a gaming vendor certificate issued under
9 this chapter.

10 (b) A person may not act as a casino gaming manager for a
11 gaming facility in this state unless the person holds a casino
12 gaming manager certificate issued under this chapter.

13 (c) Unless the person holds the required gaming employee
14 certificate, a person may not act as a gaming employee in any gaming
15 employee position for which the commission by rule requires a
16 person to hold a certificate issued under this chapter.

17 Sec. 2005.104. GAMING VENDOR CERTIFICATE. (a) The
18 commission shall issue a gaming vendor certificate to an eligible
19 person with the resources and experience required to provide casino
20 games or casino gaming equipment and services for casino gaming
21 operations authorized under this chapter.

22 (b) The commission by rule shall establish the minimum
23 qualifications for a gaming vendor certificate to ensure a
24 competitive market for casino gaming equipment and services and the
25 availability of reliable casino gaming equipment and services,
26 consistent with the public health, welfare, and safety.

27 Sec. 2005.105. CASINO GAMING MANAGER CERTIFICATE. (a) The

1 commission shall issue a casino gaming manager certificate to an
2 eligible person with the qualifications and experience required to
3 manage casino gaming operations under this chapter.

4 (b) The commission by rule shall establish the minimum
5 qualifications for a casino gaming manager certificate necessary to
6 protect the public health, welfare, and safety.

7 Sec. 2005.106. GAMING EMPLOYEE CERTIFICATE. The commission
8 by rule and as necessary to protect the public health, welfare, and
9 safety may establish gaming employee positions that require a
10 certificate issued under this chapter to act in those positions.

11 Sec. 2005.107. BACKGROUND INVESTIGATIONS. Before issuing a
12 certificate to a person under this chapter, the commission shall
13 conduct a background investigation that includes obtaining
14 criminal history record information of the person seeking the
15 certificate to assist the commission in determining the person's
16 eligibility or suitability for the certificate.

17 SUBCHAPTER D. REVENUE

18 Sec. 2005.151. STATE CASINO GAMING ACCOUNT. The state
19 casino gaming account is a special account in the general revenue
20 fund. The account consists of all revenue received by the
21 commission from casino gaming, fees received under this chapter,
22 and all money credited to the account from any other fund or source
23 under law.

24 Sec. 2005.152. CASINO GAMING TAX. (a) A casino gaming tax
25 in an amount equal to 18 percent of a casino's gross gaming revenue
26 is imposed on each holder of a casino gaming operator's license.

27 (b) For each state fiscal year, the comptroller shall

1 allocate the revenue from the tax imposed under this section and
2 transfer to:

3 (1) the catastrophe reserve trust fund established
4 under Subchapter J, Chapter 2210, Insurance Code, the lesser of:

5 (A) 50 percent of the tax revenue imposed under
6 this section; or

7 (B) the amount sufficient to ensure that the
8 premium and other revenue of the Texas Windstorm Insurance
9 Association together with the money allocated under this section
10 equals the insured losses and operating expenses of the association
11 for the state fiscal year; and

12 (2) the catastrophic flooding assistance trust fund
13 established under Section 2005.153 the remainder of the tax revenue
14 after making a transfer as required by Subdivision (1).

15 (c) The comptroller by rule shall adopt a schedule for the
16 collection of the tax imposed under this section and the transfer of
17 tax revenue under Subsection (b).

18 (d) Title 2, Tax Code, applies to the tax imposed under this
19 section.

20 Sec. 2005.153. CATASTROPHIC FLOODING ASSISTANCE TRUST
21 FUND. (a) The catastrophic flooding assistance trust fund is
22 established outside the treasury and is administered by the office
23 of the governor. Credits of money in the fund are not state funds or
24 subject to legislative appropriation.

25 (b) The trust fund consists of money deposited to the fund
26 under Section 2005.152 and appropriations to the fund made by the
27 legislature.

1 (c) If the office of the governor under Section 418.014,
2 Government Code, declares a state of disaster regarding
3 catastrophic flooding in a coastal area of this state, the governor
4 shall make money in the fund available to the Texas Division of
5 Emergency Management for the purpose of providing emergency relief
6 under the state emergency management plan for victims of loss
7 caused by the catastrophic flooding.

8 (d) Interest and income from the assets of the trust fund
9 shall be credited to and deposited in the trust fund.

10 SUBCHAPTER E. CRIMINAL OFFENSES; DISCIPLINARY ACTIONS;

11 ADMINISTRATIVE AND CIVIL PENALTIES

12 Sec. 2005.201. MANIPULATION OR TAMPERING. (a) A person
13 commits an offense if the person intentionally or knowingly
14 manipulates the outcome of a casino game, the amount of a casino
15 game prize, or the operation of a casino gaming device by physical,
16 electronic, or other means, other than in accordance with
17 commission rules.

18 (b) An offense under this section is a felony of the third
19 degree.

20 Sec. 2005.202. SALE OF CASINO GAME TO INDIVIDUAL YOUNGER
21 THAN 18 YEARS OF AGE. (a) A person who is a casino gaming manager
22 or an employee or agent of a casino gaming manager commits an
23 offense if the person intentionally or knowingly:

24 (1) sells or offers to sell a play of a casino game to
25 an individual the person knows is younger than 18 years of age or
26 permits the individual to purchase a play of a casino game; or

27 (2) pays money or issues a credit slip or other

1 winnings for a play of a casino game to an individual the person
2 knows is younger than 18 years of age.

3 (b) An individual who is younger than 18 years of age
4 commits an offense if the individual:

5 (1) purchases a play of a casino game;

6 (2) accepts money, a credit slip, or other payment of
7 winnings for a play of a casino game; or

8 (3) falsely represents the individual to be 18 years
9 of age or older by displaying evidence of age that is false or
10 fraudulent or misrepresents in any way the individual's age in
11 order to purchase a play of a casino game.

12 (c) An offense under Subsection (a) is a Class B
13 misdemeanor.

14 (d) An offense under Subsection (b) is a misdemeanor
15 punishable by a fine not to exceed \$250.

16 Sec. 2005.203. DISCIPLINARY ACTIONS. (a) The commission
17 may refuse to issue a license or certificate or may revoke, suspend,
18 or refuse to renew a license or certificate or may reprimand a
19 license or certificate holder for a violation of this chapter,
20 other state law, or a rule of the commission.

21 (b) If the commission proposes to take action against a
22 license or certificate holder or applicant under Subsection (a),
23 the license or certificate holder or applicant is entitled to
24 notice and a hearing.

25 (c) The commission may place on probation subject to
26 reasonable conditions a person whose license or certificate is
27 suspended under this section.

1 (d) The commission may summarily suspend a license or
2 certificate issued under this chapter in the same manner as the
3 commission is authorized to suspend a license under Section
4 466.160, Government Code, if the commission determines that the
5 action is necessary to maintain the integrity, security, or
6 fairness of casino gaming.

7 (e) The commission by rule shall develop a system for
8 monitoring a license or certificate holder's compliance with this
9 chapter.

10 Sec. 2005.204. ADMINISTRATIVE PENALTY. (a) The commission
11 may impose an administrative penalty against a person who violates
12 this chapter or a rule or order adopted by the commission under this
13 chapter in the same manner as the commission is authorized to impose
14 an administrative penalty under Subchapter M, Chapter 2001.

15 (b) The amount of the administrative penalty may not exceed
16 \$1,000 for each violation. Each day a violation continues or occurs
17 may be considered a separate violation for purposes of imposing a
18 penalty.

19 (c) In determining the amount of the penalty, the executive
20 director shall consider:

21 (1) the seriousness of the violation, including the
22 nature, circumstances, extent, and gravity of the violation;

23 (2) the history of previous violations;

24 (3) the amount necessary to deter future violations;

25 (4) efforts to correct the violation; and

26 (5) any other matter that justice may require.

27 (d) The notice, hearing, and appeal for an administrative

1 penalty assessed under this section shall be provided or conducted
2 in the same manner as notice, hearing, and appeals are provided or
3 conducted under Subchapter M, Chapter 2001.

4 Sec. 2005.205. CIVIL PENALTY. (a) A person who violates
5 this chapter or a rule adopted by the commission under this chapter
6 is liable to the state for a civil penalty not to exceed \$5,000 for
7 each day of violation.

8 (b) At the request of the commission, the attorney general
9 shall bring an action to recover a civil penalty authorized by this
10 section. The attorney general may recover reasonable expenses,
11 including attorney's fees, incurred in recovering the civil
12 penalty.

13 SECTION 2. Section 411.108(a-1), Government Code, is
14 amended to read as follows:

15 (a-1) The Texas Lottery Commission is entitled to obtain
16 from the department criminal history record information maintained
17 by the department that relates to:

18 (1) a person licensed under Chapter 2001, Occupations
19 Code, or described by Section 2001.3025, Occupations Code; or

20 (2) a person holding or applying for a license or
21 certificate under Chapter 2005, Occupations Code.

22 SECTION 3. Section 466.024(b), Government Code, is amended
23 to read as follows:

24 (b) The commission shall adopt rules prohibiting the
25 operation of any game using a video lottery machine or video gaming
26 machine, except in accordance with Chapter 2005, Occupations Code.

27 SECTION 4. Section 47.02(c), Penal Code, is amended to read

1 as follows:

2 (c) It is a defense to prosecution under this section that
3 the actor reasonably believed that the conduct:

4 (1) was permitted under Chapter 2001, Occupations
5 Code;

6 (2) was permitted under Chapter 2002, Occupations
7 Code;

8 (3) was permitted under Chapter 2004, Occupations
9 Code;

10 (4) was permitted under Chapter 2005, Occupations
11 Code;

12 (5) consisted entirely of participation in the state
13 lottery authorized by the State Lottery Act (Chapter 466,
14 Government Code);

15 (6) [~~5~~] was permitted under Subtitle A-1, Title 13,
16 Occupations Code (Texas Racing Act); or

17 (7) [~~6~~] consisted entirely of participation in a
18 drawing for the opportunity to participate in a hunting, fishing,
19 or other recreational event conducted by the Parks and Wildlife
20 Department.

21 SECTION 5. Section 47.09, Penal Code, is amended by
22 amending Subsection (a) and adding Subsection (c) to read as
23 follows:

24 (a) It is a defense to prosecution under this chapter that
25 the conduct:

26 (1) was authorized under:

27 (A) Chapter 2001, Occupations Code;

1 (B) Chapter 2002, Occupations Code;
2 (C) Chapter 2004, Occupations Code;
3 (D) Chapter 2005, Occupations Code;
4 (E) Subtitle A-1, Title 13, Occupations Code
5 (Texas Racing Act); or

6 (F) [~~E~~] Chapter 280, Finance Code;

7 (2) consisted entirely of participation in the state
8 lottery authorized by Chapter 466, Government Code; or

9 (3) was a necessary incident to the operation of the
10 state lottery and was directly or indirectly authorized by:

11 (A) Chapter 466, Government Code;

12 (B) the lottery division of the Texas Lottery
13 Commission;

14 (C) the Texas Lottery Commission; or

15 (D) the director of the lottery division of the
16 Texas Lottery Commission.

17 (c) Subsection (a)(1)(D) applies to a person manufacturing,
18 possessing, or operating a gambling device under a license or
19 certificate issued under Chapter 2005, Occupations Code.

20 SECTION 6. Chapter 47, Penal Code, is amended by adding
21 Section 47.095 to read as follows:

22 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
23 a defense to prosecution under this chapter that a person sells,
24 leases, transports, possesses, stores, or manufactures a gambling
25 device with the authorization of the Texas Lottery Commission under
26 Chapter 2005, Occupations Code, for transportation in interstate or
27 foreign commerce.

1 SECTION 7. (a) As soon as practicable after the effective
2 date of this Act, the Texas Lottery Commission shall adopt the rules
3 necessary to implement casino gaming in accordance with Chapter
4 2005, Occupations Code, as added by this Act.

5 (b) The Texas Lottery Commission may adopt initial rules for
6 purposes of implementing casino gaming in accordance with Chapter
7 2005, Occupations Code, as added by this Act, that expire not later
8 than May 1, 2022. Chapter 2001, Government Code, does not apply to
9 the adoption of those rules. This subsection expires June 1, 2022.

10 SECTION 8. This Act takes effect December 1, 2021, but only
11 if the constitutional amendment authorizing the operation of casino
12 gaming in certain state coastal areas to provide additional money
13 for residual windstorm insurance coverage and catastrophic
14 flooding assistance in those areas and authorizing the Kickapoo
15 Traditional Tribe of Texas to conduct casino gaming by executing a
16 gaming compact with this state is approved by the voters. If that
17 amendment is not approved by the voters, this Act has no effect.