

By: Wilson

H.B. No. 3380

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of ocean-going ships on which gambling is offered and to the application of certain gambling offenses to ocean-going ships; creating offenses and providing penalties.

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

SECTION 1. Title 6, Revised Statutes, is amended by adding Article 179g to read as follows:

Art. 179g. DAY CRUISE CASINO SHIPS

Sec. 1. DEFINITIONS. In this article:

(1) "Casino" means a part of a ship in which gaming is conducted.

(2) "Casino operator" means a person who maintains a game aboard a day cruise casino ship.

(3) "Commission" means the Texas Commission of Licensing and Regulation.

(4) "Commissioner" means the commissioner of licensing and regulation.

(5) "Day cruise casino ship" means an ocean-going vessel:

(A) on which gaming is conducted in the territorial waters of this state; or

(B) that boards passengers at a port in this state for regularly scheduled day cruises of less than 24 hours that includes gaming.

1 (6) "Game" or "gaming" means any betting activity
2 described in Chapter 47, Penal Code, including an activity that
3 uses gaming equipment or devices.

4 (7) "Gaming employee" means any individual directly
5 connected with the operation of a game on a day cruise casino ship.
6 The term does not include a person who is:

7 (A) required to hold a license under Section 3 or
8 4 of this article; or

9 (B) employed on a day cruise casino ship
10 exclusively:

11 (i) in connection with preparation or
12 serving of food or beverages; or

13 (ii) as a crew member or officer
14 responsible for operating or navigating the day cruise casino ship.

15 (8) "License holder" means any person holding a
16 license issued under this article.

17 (9) "Person" includes a corporation, organization,
18 business trust, estate, trust, partnership, association, and any
19 other legal entity.

20 Sec. 2. RULES. (a) The commission may adopt rules for the
21 administration of this article.

22 (b) The commission shall adopt rules to prevent gambling by
23 persons younger than 21 years of age and to prevent persons younger
24 than 16 years of age from boarding a day cruise casino ship unless
25 accompanied by a parent, conservator, guardian, or other legal
26 custodian of the person.

27 Sec. 3. SHIP OPERATOR LICENSE REQUIRED. A person must

1 obtain a license to operate a day cruise casino ship.

2 Sec. 4. CASINO OPERATOR LICENSE REQUIRED. A person must
3 obtain a license to operate a casino on a day cruise casino ship.

4 Sec. 5. GAMING EMPLOYEE LICENSE REQUIRED. A person must
5 obtain a license to work as a gaming employee on a day cruise casino
6 ship.

7 Sec. 6. FEES. The fee for a day cruise casino ship operator
8 license under Section 3 of this article is \$25,000 per ship. The
9 commission shall set fees for other licenses and renewals under
10 this article in amounts that are reasonable and necessary to cover
11 the complete cost of administering this article and the cost of
12 administering the application process, including background
13 investigations and fingerprint and criminal history record checks.
14 The commission may enter into an interagency contract with the
15 Department of Public Safety to provide background investigations or
16 to provide fingerprint and criminal history record checks required
17 under this article.

18 Sec. 7. LICENSE APPLICATION; ISSUANCE; RENEWAL. (a) An
19 applicant for a license under this article must file a written
20 application with the commissioner on a form prescribed by the
21 commissioner. The application must be accompanied by the
22 appropriate fee.

23 (b) An application for a license must include:

24 (1) if the applicant is an individual:

25 (A) the applicant's full name;

26 (B) the applicant's date and place of birth;

27 (C) a physical description of the applicant;

1 (D) the applicant's current address and
2 telephone number;

3 (E) the applicant's social security number; and

4 (F) a statement by the applicant disclosing the
5 applicant's arrest or conviction for any felony or misdemeanor
6 offense other than a misdemeanor offense under the Uniform Act
7 Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil
8 Statutes) or a similar misdemeanor traffic offense;

9 (2) if the applicant is a corporation:

10 (A) the name and address of the corporation's
11 agent for service of process in this state;

12 (B) the names and current addresses and telephone
13 numbers of its directors and stockholders;

14 (C) the date and place of birth, social security
15 number, and a physical description of each director and individual
16 stockholder;

17 (D) the applicant's federal taxpayer
18 identification number, if any; and

19 (E) a statement by each director and individual
20 stockholder disclosing any arrest or conviction of that director or
21 stockholder for any felony or misdemeanor offense other than a
22 misdemeanor offense under the Uniform Act Regulating Traffic on
23 Highways (Article 6701d, Vernon's Texas Civil Statutes) or a
24 similar misdemeanor traffic offense;

25 (3) if the applicant is an unincorporated business
26 association or any other legal entity:

27 (A) the names, current addresses and telephone

1 numbers, and percentage of ownership of each of its owners or
2 members;

3 (B) the date and place of birth, social security
4 number, and a physical description of each individual owner or
5 member;

6 (C) the applicant's federal taxpayer
7 identification number, if any; and

8 (D) a statement by each individual owner or
9 member disclosing any arrest or conviction of that owner or member
10 for any felony or misdemeanor offense other than a misdemeanor
11 offense under the Uniform Act Regulating Traffic on Highways
12 (Article 6701d, Vernon's Texas Civil Statutes) or a similar
13 misdemeanor traffic offense;

14 (4) a detailed statement of the assets and liabilities
15 of the applicant; and

16 (5) information necessary to determine whether
17 grounds for denial of the license exist under Section 10 of this
18 article.

19 (c) An application for a day cruise casino ship operator
20 license must be accompanied by:

21 (1) complete registration information on the ship to
22 be used as a day cruise casino ship;

23 (2) plans for the ship to be used as a day cruise
24 casino ship, showing the proposed location of the casino space;

25 (3) a copy of each management or concession contract
26 pertaining to the proposed day cruise casino ship, together with
27 the same information on each person named in the contract as

1 required of an applicant; and

2 (4) identification of the point of departure and
3 return for all cruises of less than 24 hours duration, designating
4 the city, city cruise ship terminal, or pier or dock at which the
5 ship is regularly berthed for scheduled sailings.

6 (d) An application for a casino operator license must be
7 accompanied by:

8 (1) complete registration information on the ship on
9 which the casino will be operated;

10 (2) plans for the ship to be used as a day cruise
11 casino ship, showing the proposed location of the casino space; and

12 (3) a detailed description of all games and devices to
13 be used for gaming aboard the ship and the methods for notifying the
14 public that the rules of each game and standards for percentages of
15 wins and losses are prominently displayed on the ship and in the
16 casino.

17 (e) The commissioner shall not issue a day cruise casino
18 ship operator license or a casino operator license for a ship to
19 operate from a port within a 60-mile radius of the county seat of a
20 county in which a greyhound racetrack licensed under the Texas
21 Racing Act (Article 179e, Vernon's Texas Civil Statutes) is
22 located, if the racetrack has operated for at least 90 days before
23 the license application required by this article is approved. A day
24 cruise casino ship that is operating before any greyhound racetrack
25 in the county from which the ship operates is licensed may continue
26 to operate and is eligible for a license under this Act if otherwise
27 qualified.

1 (f) The commissioner shall issue an appropriate license to
2 an applicant who meets the requirements of this article. The
3 commissioner shall provide each license holder with a license
4 certificate or credentials.

5 (g) A license issued under this article expires on the first
6 anniversary of the date it was issued. A license may be renewed
7 before expiration on the filing of a renewal application in the form
8 prescribed by the commissioner accompanied by the renewal fee.

9 (h) An applicant or license holder shall notify the
10 commissioner of any change in the information in the applicant's or
11 license holder's most recent application for a license or renewal
12 of a license. The applicant or license holder shall notify the
13 commissioner of the change in the information not later than the
14 10th day after the date of the change.

15 (i) The Department of Public Safety may conduct background
16 investigations of an applicant for a license under this article
17 under an interagency contract with the commission. The
18 commissioner or the Department of Public Safety may require an
19 applicant to supplement an original application with additional
20 information that is reasonably related to the application process.

21 Sec. 8. FINGERPRINTS. (a) An applicant for a license under
22 this article must submit to the commissioner a complete set of
23 fingerprints of the individual applying for the license or, if the
24 applicant is not an individual, of any individual required to be
25 named in the application.

26 (b) The commissioner, not later than the next day after
27 receiving the fingerprints, shall forward the prints by mail to the

1 Department of Public Safety. Under an interagency contract with
2 the commission, the department shall classify the fingerprints and
3 check them against its fingerprint files and shall report to the
4 commissioner its findings concerning the criminal record of the
5 applicant or the lack of such a record. A license may not be issued
6 until the report is made to the commissioner. The department may
7 maintain records submitted under this article.

8 (c) The Department of Public Safety may adopt rules
9 governing the fingerprint process described in this section.

10 Sec. 9. ACCESS TO CRIMINAL HISTORY RECORDS. (a) The
11 commissioner may obtain any criminal history record information
12 that relates to an applicant for a license issued by the
13 commissioner under this article and that is maintained by the
14 Department of Public Safety or the Federal Bureau of Investigation
15 Identification Division. The commissioner may refuse to grant a
16 license to an applicant who fails to provide a complete set of
17 fingerprints.

18 (b) The commissioner may obtain criminal history record
19 information from any law enforcement agency.

20 (c) Criminal history record information received by the
21 commissioner under this section from any law enforcement agency
22 that requires the information to be kept confidential as a
23 condition of release of the information is for the exclusive use of
24 the commissioner, is privileged and confidential, and may not be
25 released or otherwise disclosed to any person or agency except in a
26 criminal proceeding, in a hearing conducted by the commissioner or
27 a hearings officer appointed by the commissioner, on court order,

1 or with the consent of the applicant.

2 Sec. 10. DENIAL OF APPLICATION OR SUSPENSION OR REVOCATION
3 OF LICENSE. After a hearing, the commissioner shall deny an
4 application for a license or suspend or revoke a license if the
5 commissioner finds that the applicant or license holder:

6 (1) is an individual who:

7 (A) has, in any jurisdiction, been convicted of
8 or placed on probation for a felony, criminal fraud, gambling or a
9 gambling-related offense, or a misdemeanor involving moral
10 turpitude; or

11 (B) is married to or related in the first degree
12 of consanguinity or affinity to an individual described in
13 Paragraph (A) of this subdivision;

14 (2) is not an individual, and an individual described
15 in Subdivision (1) of this section:

16 (A) is an officer or director of the applicant or
17 license holder;

18 (B) holds more than 10 percent of the stock in the
19 applicant or license holder;

20 (C) holds an equitable interest greater than 10
21 percent in the applicant or license holder;

22 (D) is a creditor of the applicant or license
23 holder who holds more than 10 percent of the applicant's or license
24 holder's outstanding debt;

25 (E) shares or will share in the profits, other
26 than stock dividends, of the applicant or license holder; or

27 (F) participates in managing the affairs of the

1 applicant or license holder;

2 (3) has failed to disclose information that would, if
3 disclosed, render the license holder ineligible for a license under
4 this section;

5 (4) has failed to provide to the commissioner or the
6 Department of Public Safety supplementary information as required
7 by this article;

8 (5) has violated this article or a rule adopted under
9 this article; or

10 (6) has violated a federal or state penal gambling
11 statute.

12 Sec. 11. OFFENSES. (a) A person commits an offense if the
13 person violates Section 3, 4, or 5 of this article.

14 (b) A person commits an offense if:

15 (1) the person employs another as a gaming employee;

16 (2) the person employed is required to hold a gaming
17 employee license under Section 5 of this article; and

18 (3) the person employed does not have a gaming
19 employee license issued under Section 7 of this article.

20 (c) A person commits an offense if the person intentionally,
21 knowingly, recklessly, or with criminal negligence makes a false,
22 incorrect, or deceptive material statement to another who is
23 conducting an investigation or exercising discretion under this
24 article or a rule adopted under this article. In this subsection,
25 "statement" includes:

26 (1) a written or oral statement; and

27 (2) a sworn or unsworn statement.

1 (d) A person commits an offense if the person intentionally,
2 knowingly, recklessly, or with criminal negligence refuses,
3 denies, or hinders entry to another who is exercising or attempting
4 to exercise a power of boarding or inspection under this article.

5 (e) A person commits an offense if the person intentionally,
6 knowingly, recklessly, or with criminal negligence permits a person
7 younger than 21 years of age to engage in gaming aboard a day cruise
8 casino ship.

9 (f) A person younger than 21 years of age commits an offense
10 if the person intentionally or knowingly engages in gaming aboard a
11 day cruise casino ship. An offense under this subsection is a Class
12 C misdemeanor.

13 (g) Except as provided in Subsection (f) of this section, an
14 offense under this section is a felony of the third degree.

15 Sec. 12. VENUE. An offense under this article may be
16 prosecuted in:

17 (1) the county in which venue is proper under Article
18 13.11, Code of Criminal Procedure; or

19 (2) Travis County, if:

20 (A) it cannot be proved in which county the
21 alleged offense occurred; or

22 (B) the offense is the failure to have a valid
23 license under this article.

24 Sec. 13. ENFORCEMENT. (a) The commissioner, comptroller,
25 and Department of Public Safety shall enforce this article. The
26 commissioner, comptroller, or department may board and inspect a
27 day cruise casino ship located in this state, including the

1 territorial waters of this state, to ensure that the ship is
2 operated in compliance with state or other applicable law. The
3 commissioner, comptroller, or Department of Public Safety may
4 charter a ship at the expense of a licensed day cruise casino ship
5 operator if the commissioner, comptroller, or department considers
6 it necessary to board the ship at sea.

7 (b) A license holder may not refuse a request by the
8 commissioner, comptroller, or Department of Public Safety to board
9 or inspect a ship licensed under this article.

10 (c) The commissioner, comptroller, or Department of Public
11 Safety may initiate a complaint under this article with the
12 commissioner.

13 Sec. 14. MUNICIPAL REGULATION. (a) A municipality by
14 ordinance may impose regulations for the protection of the health
15 and safety of the passengers or crew of day cruise casino ships that
16 regularly take on passengers in the municipality or that are
17 regularly loaded, fueled, repaired, stored, or docked in the
18 municipality, and may levy a boarding fee that does not exceed \$1
19 per passenger per trip.

20 (b) A municipality may inspect a day cruise casino ship that
21 is docked in the municipality to determine whether the ship is being
22 operated in compliance with this article, Chapter 47, Penal Code,
23 municipal ordinances, or other law.

24 (c) A municipal ordinance may not prohibit any activity
25 relating to a day cruise casino ship that is expressly permissible
26 under this article, Chapter 47, Penal Code, or other state law. A
27 municipality may not require a license in addition to the licenses

1 required by this article.

2 (d) A municipality may impose an annual fee on the operator
3 of a day cruise casino ship for the municipality's costs of
4 investigation and inspection. The annual fee may not exceed
5 \$10,000 per ship.

6 SECTION 2. Section 47.01, Penal Code, is amended by adding
7 Subdivisions (9) and (10) to read as follows:

8 (9) "Coastline" means the line of mean low tide along
9 the portions of the Texas coast that are in direct contact with the
10 open Gulf of Mexico.

11 (10) "Day cruise casino ship" has the meaning assigned
12 by Article 179g, Revised Statutes.

13 SECTION 3. Subsection (c), Section 47.02, Penal Code, is
14 amended to read as follows:

15 (c) It is an affirmative [~~a~~] defense to prosecution under
16 this section that:

17 (1) the actor reasonably believed that the conduct was
18 permitted under:

19 (A) the Bingo Enabling Act (Article 179d,
20 Vernon's Texas Civil Statutes); or

21 (B) [~~under~~] the Charitable Raffle Enabling Act
22 (Article 179f, Revised Statutes);

23 (2) the conduct occurred aboard a day cruise casino
24 ship, the actor did not operate the game or contest, and the actor
25 reasonably believed that:

26 (A) the owner of the ship and the person
27 operating the game held appropriate licenses under Article 179g,

1 Revised Statutes; and

2 (B) the ship was at least three nautical miles
3 gulfward from the coastline at the time the conduct occurred; or

4 (3) the conduct occurred aboard a day cruise casino
5 ship, the actor held an appropriate license under Article 179g,
6 Revised Statutes, and reasonably believed his conduct complied with
7 that article and rules adopted under that article, and the ship was
8 at least three nautical miles gulfward from the coastline at the
9 time the conduct occurred.

10 SECTION 4. Subsection (c), Section 47.04, Penal Code, is
11 amended to read as follows:

12 (c) It is an affirmative defense to prosecution under this
13 section that the gambling place is aboard a day cruise casino ship
14 ~~[an ocean-going vessel that enters the territorial waters of this~~
15 ~~state to call at a port in this state]~~ if:

16 (1) the operator of the ship and the operator of the
17 gambling place hold appropriate licenses under Article 179g,
18 Revised Statutes, if licenses are required by that article because
19 of gambling that may occur in ~~[before the vessel enters the~~
20 ~~territorial waters of this state, the district attorney or, if~~
21 ~~there is no district attorney, the county attorney for the county in~~
22 ~~which the port is located receives notice of the existence of the~~
23 ~~gambling place on board the vessel and of the anticipated dates on~~
24 ~~which the vessel will enter and leave]~~ the territorial waters of
25 this state;

26 (2) the portion of the ship ~~[vessel]~~ that is used as a
27 gambling place is locked or otherwise physically secured in a

1 manner that makes the area inaccessible to anyone other than the
2 master and crew of the ship ~~[vessel]~~ at all times while the ship
3 ~~[vessel]~~ is located less than three nautical miles gulfward from
4 the coastline ~~[in the territorial waters of this state];~~

5 (3) no person other than the master and crew of the
6 ship ~~[vessel]~~ is permitted to enter ~~[or view]~~ the gambling place
7 while the ship ~~[vessel]~~ is located less than three nautical miles
8 gulfward from the coastline ~~[in the territorial waters of this~~
9 ~~state]; and~~

10 (4) the gambling place is not used for gambling or
11 other gaming purposes while the ship ~~[vessel]~~ is located less than
12 three nautical miles gulfward from the coastline ~~[in the~~
13 ~~territorial waters of this state].~~

14 SECTION 5. Subsection (c), Section 47.06, Penal Code, is
15 amended to read as follows:

16 (c) It is an affirmative defense to prosecution under
17 Subsection (a) of this section that the device or equipment is
18 aboard a day cruise casino ship ~~[an ocean-going vessel that enters~~
19 ~~the territorial waters of this state to call at a port in this~~
20 ~~state] if:~~

21 (1) the operator of the ship and the operator of the
22 gambling place hold appropriate licenses under Article 179g,
23 Revised Statutes, if licenses are required by that article because
24 of gambling that may occur in ~~[before the vessel enters the~~
25 ~~territorial waters of this state, the district attorney or, if~~
26 ~~there is no district attorney, the county attorney for the county in~~
27 ~~which the port is located receives notice of the existence of the~~

1 ~~device or equipment on board the vessel and of the anticipated dates~~
2 ~~on which the vessel will enter and leave]~~ the territorial waters of
3 this state;

4 (2) the portion of the ship ~~[vessel]~~ in which the
5 device or equipment is located is locked or otherwise physically
6 secured in a manner that makes the area inaccessible to anyone other
7 than the master and crew of the ship ~~[vessel]~~ at all times while the
8 ship ~~[vessel]~~ is located less than three nautical miles gulfward
9 from the coastline ~~[in the territorial waters of this state];~~

10 (3) no person other than the master and crew of the
11 ship ~~[vessel]~~ is permitted to enter ~~[or view]~~ the portion of the
12 ship ~~[vessel]~~ in which the device or equipment is located while the
13 ship ~~[vessel]~~ is located less than three nautical miles gulfward
14 from the coastline ~~[in the territorial waters of this state]; and~~

15 (4) the device or equipment is not used for gambling or
16 other gaming purposes while the ship ~~[vessel]~~ is located less than
17 three nautical miles gulfward from the coastline ~~[in the~~
18 ~~territorial waters of this state].~~

19 SECTION 6. Subsection (b), Section 47.07, Penal Code, is
20 amended to read as follows:

21 (b) It is an affirmative defense to prosecution under this
22 section that the gambling paraphernalia is aboard a day cruise
23 casino ship ~~[an ocean-going vessel that enters the territorial~~
24 ~~waters of this state to call at a port in this state]~~ if:

25 (1) the operator of the ship and the operator of the
26 gambling place hold appropriate licenses under Article 179g,
27 Revised Statutes, if licenses are required by that article because

1 of gambling that may occur in ~~[before the vessel enters the~~
2 ~~territorial waters of this state, the district attorney or, if~~
3 ~~there is no district attorney, the county attorney for the county in~~
4 ~~which the port is located receives notice of the existence of the~~
5 ~~gambling paraphernalia on board the vessel and of the anticipated~~
6 ~~dates on which the vessel will enter and leave]~~ the territorial
7 waters of this state;

8 (2) the portion of the ship ~~[vessel]~~ in which the
9 gambling paraphernalia is located is locked or otherwise physically
10 secured in a manner that makes the area inaccessible to anyone other
11 than the master and crew of the ship ~~[vessel]~~ at all times while the
12 ship ~~[vessel]~~ is located less than three nautical miles gulfward
13 from the coastline ~~[in the territorial waters of this state];~~

14 (3) no person other than the master and crew of the
15 ship ~~[vessel]~~ is permitted to enter ~~[or view]~~ the portion of the
16 ship ~~[vessel]~~ in which the gambling paraphernalia is located while
17 the ship ~~[vessel]~~ is located less than three nautical miles
18 gulfward from the coastline ~~[in the territorial waters of this~~
19 ~~state]; and~~

20 (4) the gambling paraphernalia is not used for
21 gambling or other gaming purposes while the ship ~~[vessel]~~ is
22 located less than three nautical miles gulfward from the coastline
23 ~~[in the territorial waters of this state].~~

24 SECTION 7. Article 179f, Revised Statutes, as added by
25 Section 5, Chapter 1030, Acts of the 71st Legislature, Regular
26 Session, 1989, is repealed.

27 SECTION 8. (a) The change in law made by this Act applies

1 only to an offense committed on or after the effective date of this
2 Act. For purposes of this section, an offense is committed before
3 the effective date of this Act if any element of the offense occurs
4 before the effective date.

5 (b) An offense committed before the effective date of this
6 Act is covered by the law in effect when the offense was committed,
7 and the former law is continued in effect for that purpose.

8 SECTION 9. (a) This Act takes effect September 1, 2004.

9 (b) A person who on the effective date of this Act operates a
10 cruise ship having a casino may continue to operate the ship and may
11 conduct gambling in the territorial waters of this state as
12 permitted by Chapter 47, Penal Code, as amended by this Act, or
13 outside the territorial waters of this state without obtaining a
14 license under Article 179g, Revised Statutes, as added by this Act,
15 if:

16 (1) the person holds a license to operate the ship
17 issued by a municipality; and

18 (2) the municipal licensing procedure requires
19 appropriate Department of Public Safety approval of the owner and
20 operator of the ship.

21 (c) A person operating a ship under Subsection (b) of this
22 section shall notify the commissioner of licensing and regulation
23 before the person conducts gambling in the territorial waters of
24 this state as permitted by Chapter 47, Penal Code, as amended by
25 this Act. The commissioner shall provide the person with an
26 appropriate application for a license under Article 179g, Revised
27 Statutes, as added by this Act, as soon as the applications are

1 developed.

2 (d) A person operating a cruise ship having a casino under
3 Subsection (b) of this section may not conduct gambling in the
4 territorial waters of this state if the commissioner of licensing
5 and regulation denies the person a license under Article 179g,
6 Revised Statutes.

7 SECTION 10. The importance of this legislation and the
8 crowded condition of the calendars in both houses create an
9 emergency and an imperative public necessity that the
10 constitutional rule requiring bills to be read on three several
11 days in each house be suspended, and this rule is hereby suspended.