

By: Lucio

S.B. No. 1894

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authorization and regulation of casino gambling and
3 to the creation, powers, and duties of the Texas Gaming Commission;
4 authorizing the imposition of gaming taxes for certain purposes
5 including the establishment of scholarships for Texas students in
6 public colleges and universities; providing civil and criminal
7 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 2004 to read as follows:

11 CHAPTER 2004. CASINO GAMBLING

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 2004.001. SHORT TITLE. This chapter may be cited as
14 the Texas Higher Education Scholarship and Gaming Control Act.

15 Sec. 2004.002. PUBLIC POLICY. (a) All casino gaming that
16 is conducted in this state and that is authorized by law shall be
17 regulated and licensed under this chapter unless the legislature or
18 federal law specifically provides otherwise.

19 (b) The legislature hereby finds, and declares it to be the
20 public policy of this state, that:

21 (1) the development of regulated limited casino gaming
22 in the state will benefit the general welfare of the people of this
23 state by enhancing investment, development, and tourism in this
24 state, resulting in new jobs and additional revenues to the state;

1 (2) the conduct of regulated casino gaming in a
2 limited number of casinos will not harm the people of this state;

3 (3) the regulation of gaming in this state is
4 important in order that gaming be conducted honestly and
5 competitively and that gaming be free from criminal and corruptive
6 elements;

7 (4) public confidence and trust can be maintained only
8 by strict regulation of all persons, locations, practices,
9 associations, and activities related to the conduct of gaming and
10 the casino service industry;

11 (5) persons owning any direct or indirect material
12 interest in a casino should be licensed and controlled to protect
13 the public health, safety, morals, good order, and general welfare
14 of the people of this state;

15 (6) certain operators and employees of casinos should
16 be regulated, licensed, and controlled to accomplish and promote
17 public policies relating to casino gaming while protecting the
18 public health, safety, morals, good order, and general welfare of
19 the people of this state; and

20 (7) certain persons engaging in the casino service
21 industry should be regulated, licensed, and controlled to
22 accomplish and promote these public policies while protecting the
23 public health, safety, morals, good order, and general welfare of
24 the people of this state.

25 (c) It is the intent of this chapter that:

26 (1) where possible, the resources, goods, labor, and
27 services of the people of this state be used in the operation and

1 construction of casinos and casino-related amenities to the extent
2 allowable by law;

3 (2) the commission operating expenses be provided from
4 application fee for licenses for casino gaming; and

5 (3) a scholarship program be established from tax
6 revenues from casino gaming to provide Texas students with
7 scholarships to attend Texas public colleges and universities.

8 Sec. 2004.003. DEFINITIONS. In this chapter:

9 (1) "Affiliate" means a person who directly or
10 indirectly through one or more intermediaries controls, is
11 controlled by, or is under common control with another person. A
12 person is considered to control a company if the person
13 beneficially owns more than a five percent equity interest in the
14 company under the beneficial ownership rules adopted by the
15 commission.

16 (2) "Applicant" means a person who has applied for an
17 owner's license, an operator's license, an occupational license, a
18 manufacturer's license, a casino service license, or a
19 qualification to hold an equity interest or creditor interest in an
20 owner licensee or who has applied for the approval of any act or
21 transaction for which approval is required or permitted under this
22 chapter.

23 (3) "Associated equipment" means any equipment or
24 mechanical, electromechanical, or electronic contrivance,
25 component, or machine used in connection with gaming or with any
26 game that would not otherwise be classified as a gaming device,
27 including dice, playing cards, links connecting progressive slot

1 machines, equipment affecting the proper reporting of gross gaming
2 revenue, computerized systems or software for monitoring slot
3 machines, and devices for weighing or counting money.

4 (4) "Casino" means a facility at which gambling games
5 are conducted for profit that are not authorized by a law other than
6 this chapter.

7 (5) "Casino operator" means a person, other than the
8 owner licensee, who contractually agrees to provide operational and
9 managerial services for the operation of a casino on behalf of the
10 owner licensee in return for receiving a payment based in whole or
11 part on profits or receipts from the casino.

12 (6) "Casino service" means the provision of goods or
13 services, including security service and gaming schools, to a
14 person holding an owner's or operator's license under this chapter,
15 other than a service requiring a manufacturer's license.

16 (7) "Casino service license" means a license issued
17 under Section 2004.252.

18 (8) "Casino service licensee" means the holder of a
19 casino service license.

20 (9) "Commission" means the Texas Gaming Commission.

21 (10) "Commission member" means a member of the
22 commission.

23 (11) "Company" means a corporation, partnership,
24 limited partnership, trust, association, joint stock company,
25 joint venture, limited liability company, or other form of business
26 organization, but does not include a sole proprietorship or natural
27 person.

1 (12) "Creditor interest" means a right or claim of any
2 character against a person for the payment of money borrowed,
3 whether secured or unsecured, matured or unmatured, liquidated or
4 absolute, fixed or contingent, and includes an obligation based on
5 the person's profits or receipts.

6 (13) "Director" means a member of the board of
7 directors of a corporation and a person performing similar
8 functions with respect to a company other than a corporation.

9 (14) "Equity interest" means a proprietary interest,
10 right, or claim allowing the holder either to vote with respect to
11 matters of organizational governance or to participate in the
12 profits and residual assets of a company, including common and
13 preferred stock in a corporation, a general or limited partnership
14 interest in a partnership, a similar interest in any other form of
15 business organization, and a warrant, right, or similar interest
16 convertible into, or to subscribe for, a proprietary right or
17 claim, with or without the payment of additional consideration.

18 (15) "Executive director" means the executive
19 director of the commission.

20 (16) "Family" means, with respect to a natural person,
21 any other natural person related to the person within the second
22 degree by affinity or the third degree by consanguinity, as
23 determined under Subchapter B, Chapter 573, Government Code.

24 (17) "Game" or "gambling game":

25 (A) means any game or similar activity that
26 involves the making of a bet, as defined by Section 47.01, Penal
27 Code, for consideration, including:

1 (i) a banking or percentage game played
2 with cards, dice, or a mechanical, electromechanical, or electronic
3 device or machine for money, property, checks, credit, or a
4 representative of value, including roulette, keno, twenty-one,
5 blackjack, craps, poker, chuck-a-luck (dai shu), wheel of fortune,
6 chemin de fer, baccarat, pai gow, slot machine, any other
7 electronic game of chance, and any other game or device approved by
8 the commission;

9 (ii) simulcast wagering on pari-mutuel
10 greyhound or horse racing;

11 (iii) the maintenance of a race book; and

12 (iv) any other method of effecting a wager
13 approved by the commission; and

14 (B) does not include:

15 (i) bingo, as authorized by Chapter 2001;

16 (ii) charitable raffles, as authorized by
17 Chapter 2002; or

18 (iii) the state lottery conducted under
19 Chapter 466, Government Code.

20 (18) "Gaming" or "gambling" means to deal, operate,
21 carry on, conduct, maintain, or expose for play a game in a casino.

22 (19) "Gaming device" means a mechanical,
23 electromechanical, or electronic contrivance, component, or
24 machine used in connection with gaming or a game that affects the
25 result of a wager by determining win or loss. The term includes a
26 system for processing information that can alter the normal
27 criteria of random selection, affect the operation of a game, or

1 determine the outcome of a game.

2 (20) "Gaming employee":

3 (A) means an individual directly involved in the
4 operation or conduct of gaming in a casino performing a service in a
5 capacity that the commission finds appropriate for occupational
6 licensing under Section 2004.202, including:

7 (i) a boxman, a cashier, change personnel,
8 counting room personnel, a dealer, a floor person, a host empowered
9 to extend credit or complimentary services, a keno runner, a keno
10 writer, a machine mechanic, or security personnel;

11 (ii) a shift or pit boss or a supervisor or
12 manager involved in gaming activities;

13 (iii) accounting or internal auditing
14 personnel directly involved in recordkeeping or the examination of
15 records generated from gaming activities; and

16 (iv) a junketeer or other independent agent
17 whose compensation is based on how much a patron wagers or loses or
18 who is paid per patron more than the price of admission; and

19 (B) does not include bartenders, cocktail
20 waitresses, or other individuals engaged exclusively in preparing
21 or serving food or beverages or individuals providing nominal,
22 complimentary, or maintenance services.

23 (21) "Gross gaming revenue":

24 (A) means the total of the following, less the
25 total of all cash paid out as losses to patrons and those amounts
26 paid to purchase annuities to fund losses paid to patrons by
27 independent financial institutions and items made deductible as

1 losses under Section 2004.452:

2 (i) cash received by an owner licensee as
3 winnings;

4 (ii) cash received by an owner licensee in
5 payment for credit extended by the owner licensee to a patron for
6 the purposes of gaming; and

7 (iii) compensation received by an owner
8 licensee for conducting any game in which the owner licensee is not
9 a party to a wager; and

10 (B) does not include:

11 (i) counterfeit money or tokens;

12 (ii) coins of other countries that are
13 received in slot machines or gaming devices;

14 (iii) cash taken in fraudulent acts
15 perpetrated against an owner licensee for which the licensee is not
16 reimbursed; or

17 (iv) cash received as entry fees for
18 contests or tournaments in which the patrons compete for prizes.

19 (22) "Hearing examiner" means a person authorized by
20 the commission to conduct hearings.

21 (23) "Institutional investor" means a person, other
22 than a state or federal pension plan, that meets the requirements of
23 a "qualified institutional buyer" as defined in 17 C.F.R. Section
24 230.144A, as amended, and that is:

25 (A) a bank as defined in Section 3(a)(6),
26 Securities Exchange Act of 1934 (15 U.S.C. Section 78c), as
27 amended;

1 (B) an insurance company as defined in Section
2 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section 80a-2),
3 as amended;

4 (C) an investment company registered under
5 Section 8, Investment Company Act of 1940 (15 U.S.C. Section
6 80a-8), as amended;

7 (D) an investment adviser registered under
8 Section 203, Investment Advisers Act of 1940 (15 U.S.C. Section
9 80b-3), as amended;

10 (E) a collective trust fund as defined by Section
11 3(c)(11), Investment Company Act of 1940 (15 U.S.C. Section 80a-3),
12 as amended;

13 (F) an employee benefit plan or pension fund that
14 is subject to the Employee Retirement Income Security Act of 1974
15 (29 U.S.C. Section 1001 et seq.), as amended, excluding an employee
16 benefit plan or pension fund sponsored by a publicly traded
17 corporation registered with the commission;

18 (G) a state or federal government pension plan;

19 (H) a group composed entirely of persons
20 specified in Paragraphs (A)-(F); or

21 (I) such other persons as the commission may
22 determine for reasons consistent with the policies expressed in
23 Section 2004.002.

24 (24) "Key executive" means a corporation's directors
25 and executive officers, a partnership's general partners, a trust's
26 trustee, a joint venture's managing venturers, and each person
27 possessing similar responsibilities and authorities in any other

1 form of business organization.

2 (25) "License" means an owner's license, an operator's
3 license, an occupational license, a casino service license, a
4 manufacturer's license, or a qualification to hold an equity
5 interest or creditor interest in an owner licensee.

6 (26) "Licensee" means a person issued a license under
7 this chapter.

8 (27) "Manufacturer licensee" means the holder of a
9 manufacturer's license.

10 (28) "Manufacturer's license" means a license issued
11 under Section 2004.251.

12 (29) "Negotiable instrument" means a writing that
13 evidences a transaction between a natural person and an owner
14 licensee at the time of the transaction whose gaming chips, tokens,
15 or currency are exchanged for the instrument and includes a writing
16 taken in consolidation, redemption, or payment of a prior
17 instrument.

18 (30) "Occupational license" means a license issued
19 under Section 2004.202.

20 (31) "Occupational licensee" means the holder of an
21 occupational license.

22 (32) "Operator's license" means a license issued under
23 Section 2004.201.

24 (33) "Operator licensee" means the holder of an
25 operator's license.

26 (34) "Owner's license" means a license issued under
27 Section 2004.152 or 2004.153.

1 (35) "Owner licensee" means a person holding an
2 owner's license.

3 (36) "Principal manager" means a person who, under the
4 rules of the commission, holds or exercises managerial,
5 supervisory, or policy-making authority over the management or
6 operation of a gaming activity or casino service that in the
7 judgment of the commission warrants the occupational licensing as a
8 principal manager for the protection of the public interest. The
9 term includes a key executive of a licensee that is a company and
10 each person controlling such a company.

11 (37) "Project commitment" means, with respect to an
12 application for an owner's license for a proposed casino, the total
13 cost of constructing and furnishing the casino and any related
14 hotel and entertainment, retail, and parking facilities, including
15 the cost of acquiring and preparing the underlying real estate, the
16 cost of obtaining requisite permits and approvals, the cost of
17 acquiring and installing slot machines, gaming devices, and
18 associated equipment, and fees for professional services and
19 financing.

20 (38) "Publicly traded company":

21 (A) means a company that:

22 (i) has one or more classes of securities
23 registered under Section 12, Securities Exchange Act of 1934 (15
24 U.S.C. Section 78l), as amended; or

25 (ii) is an issuer subject to Section 15(d),
26 Securities Exchange Act of 1934 (15 U.S.C. Section 78o), as
27 amended; and

1 (B) does not include a company or other legal
2 entity that has securities registered or is considered to be an
3 issuer solely because it guaranteed a security issued by an
4 affiliate under a public offering or is considered to be a co-issuer
5 of a public offering of securities under 17 C.F.R. Section 230.140.

6 (39) "Race book" means wagers accepted on the outcome
7 of an event held at a greyhound or horse racetrack that uses the
8 pari-mutuel system of wagering.

9 (40) "Slot machine" means a mechanical, electrical, or
10 other device or machine that, on insertion of a coin, token, or
11 similar object or on payment of consideration, is available to play
12 or operate, the play or operation of which, in whole or part by the
13 element of chance, may deliver or entitle the person playing or
14 operating the machine to receive cash, premiums, merchandise,
15 tokens, or any other thing of value, whether the payoff is made
16 automatically from the machine or is made in another manner.

17 Sec. 2004.004. EXEMPTION FROM FEDERAL STATUTES. (a) Under
18 Section 2, 64 Stat. 1134 (15 U.S.C. Section 1172), as amended, this
19 state declares that this state is exempt from that section.

20 (b) All shipments of gaming devices, including slot
21 machines, into this state, the registering, recording, and labeling
22 of which has been performed by the supplier under Sections 3 and 4
23 of the act of the Congress of the United States entitled "An act to
24 prohibit transportation of gambling devices in interstate and
25 foreign commerce," approved January 2, 1951, Chapter 1194, 64 Stat.
26 1134, designated as 15 U.S.C. Sections 1171-1178, are legal
27 shipments of the devices into this state.

1 Sec. 2004.005. APPLICATION OF SUNSET ACT. The commission
2 is subject to Chapter 325, Government Code (Texas Sunset Act).
3 Unless continued in existence as provided by that chapter, the
4 commission is abolished and this chapter expires September 1, 2015.

5 [Sections 2004.006-2004.050 reserved for expansion]

6 SUBCHAPTER B. TEXAS GAMING COMMISSION

7 Sec. 2004.051. TEXAS GAMING COMMISSION. The Texas Gaming
8 Commission is composed of seven members. One member shall be
9 appointed by the governor, one member shall be appointed by the
10 lieutenant governor, and one member shall be appointed by the
11 speaker of the house of representatives. The attorney general, the
12 comptroller, the commissioner of the general land office, and the
13 agriculture commissioner of Texas shall serve as members of the
14 commission.

15 Sec. 2004.052. QUALIFICATIONS OF COMMISSION MEMBERS.

16 (a) To be eligible for appointment to the commission, an
17 individual:

18 (1) must be a citizen of the United States;

19 (2) must have resided in this state for the two years
20 preceding the date of the person's appointment;

21 (3) must submit a financial statement that contains
22 the information required by Chapter 572, Government Code;

23 (4) may not own a financial or other interest in a
24 person engaged in the conduct of gaming or the provision of casino
25 services, or in a security issued by that person, or be related
26 within the second degree by affinity or the third degree by
27 consanguinity, as determined under Chapter 573, Government Code, to

1 an individual who owns such a financial or other interest or
2 security;

3 (5) may not be an applicant for or holder of a license
4 under this chapter or hold an equity interest or creditor interest
5 in an owner licensee requiring qualification under Section
6 2004.163; and

7 (6) may not be a member of the governing body of a
8 political subdivision of this state.

9 (b) A person holding an elective office or an officer or
10 official of a political party is not eligible for appointment to the
11 commission.

12 Sec. 2004.053. TERM. Appointed members of the commission
13 hold office for staggered terms of six years. The terms of
14 appointed members expire February 1 of odd-numbered years.

15 Sec. 2004.054. PRESIDING OFFICER. The commission members
16 shall designate one member to serve as presiding officer of the
17 commission for a term of two years.

18 Sec. 2004.055. BOND. (a) Before assuming the duties of
19 office, an appointed member of the commission must execute a bond in
20 the amount of \$25,000 payable to the state and conditioned on the
21 member's faithful performance of the member's duties of office.

22 (b) The bond must be approved by the governor.

23 (c) The cost of the bond shall be paid by the commission.

24 Sec. 2004.056. PROHIBITION OF CERTAIN ACTIVITIES. (a) An
25 appointed member of the commission may not:

26 (1) use the member's official authority to affect the
27 result of an election or nomination for public office; or

1 (2) directly or indirectly coerce, attempt to coerce,
2 command, or advise a person to pay, lend, or contribute anything of
3 value to another person for political purposes.

4 (b) A commission member or the spouse of a commission member
5 may not solicit or accept employment from a licensee or an applicant
6 for a license before the second anniversary of the date the
7 commission member's service ends.

8 Sec. 2004.057. REMOVAL. (a) It is a ground for removal
9 from the commission if an appointed member:

10 (1) does not have at the time of appointment the
11 qualifications required for appointment to the commission;

12 (2) does not maintain during service on the commission
13 the qualifications required for the appointment to the commission;

14 (3) violates a prohibition established by Section
15 2004.056;

16 (4) cannot discharge the member's duties for a
17 substantial part of the term for which the member is appointed
18 because of illness or disability; or

19 (5) is absent from more than one-half of the regularly
20 scheduled commission meetings that the member is eligible to attend
21 during a calendar year, unless the absence is excused by majority
22 vote of the commission.

23 (b) The validity of an action of the commission is not
24 affected by the fact that it is taken when a ground for removal of a
25 commission member exists.

26 (c) If the presiding officer has knowledge that a potential
27 ground for removal exists, the presiding officer shall notify the

1 governor and the attorney general.

2 Sec. 2004.058. APPLICATION OF FINANCIAL DISCLOSURE LAW.

3 For purposes of Chapter 572, Government Code, a member of the
4 commission, the executive director, and the division directors are
5 appointed officers of a major state agency.

6 Sec. 2004.059. PER DIEM; EXPENSES. Each appointed member
7 of the commission is entitled to a per diem in an amount prescribed
8 by appropriation for each day spent in performing the duties of the
9 member and is entitled to reimbursement for actual and necessary
10 expenses incurred in performing those duties. Reimbursement for
11 expenses under this section is subject to any applicable limitation
12 in the General Appropriations Act. The ex officio member is
13 entitled to reimbursement for expenses from that member's agency as
14 provided by law for expenses incurred in the performance of that
15 member's other official duties.

16 Sec. 2004.060. EXECUTIVE DIRECTOR. (a) The commission
17 shall appoint an executive director, who serves at the pleasure of
18 the commission.

19 (b) A person holding an elective office or an officer or
20 official of a political party is not eligible for appointment as
21 executive director.

22 (c) The executive director must have five or more years of
23 responsible administrative experience in public or business
24 administration or possess broad management skills.

25 (d) The executive director may not pursue any other business
26 or occupation or hold any other office for profit.

27 (e) The executive director must meet all eligibility

1 requirements relating to members of the commission, except the
2 requirement for prior residency in this state.

3 (f) The executive director is entitled to an annual salary
4 and other compensation specified by the commission.

5 (g) The executive director may not, before the second
6 anniversary of the date the director's service to the commission
7 ends, acquire a direct or indirect interest in or be employed by a
8 person licensed in the conduct of gaming or the provision of casino
9 services in this state.

10 Sec. 2004.061. OFFICES. The commission shall maintain its
11 primary office in Travis County and may maintain other offices
12 determined to be necessary by the commission.

13 Sec. 2004.062. MEETINGS. (a) The commission shall meet
14 not less than six times in each calendar year.

15 (b) The commission shall meet at the call of the presiding
16 officer or as provided by commission rule.

17 Sec. 2004.063. AUTHORITY TO SUE OR BE SUED. (a) The
18 commission may sue and be sued.

19 (b) Service of process in a suit against the commission may
20 be secured by serving the executive director.

21 (c) A suit against the commission must be brought in Travis
22 County.

23 Sec. 2004.064. AUDIT. The transactions of the commission
24 are subject to audit by the state auditor under Chapter 321,
25 Government Code.

26 [Sections 2004.065-2004.100 reserved for expansion]

1 SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

2 Sec. 2004.101. GENERAL POWERS. (a) All aspects of this
3 chapter, including those relating to licensing, qualification,
4 execution, and enforcement, shall be administered by the executive
5 director and the commission for the protection of the public and in
6 the public interest.

7 (b) The commission and the executive director have full
8 power and authority to hold hearings and, in connection to the
9 hearings, to issue subpoenas, to compel the attendance of witnesses
10 at any place in this state, to administer oaths, and to require
11 testimony under oath. Any process or notice relating to a hearing
12 may be served in the manner provided for service of process and
13 notices in civil actions. The commission and the executive
14 director may pay transportation and other expenses of witnesses as
15 they consider reasonable.

16 (c) The executive director and the executive director's
17 authorized employees may:

18 (1) inspect and examine the premises where gaming is
19 conducted or equipment or supplies, including a slot machine or
20 other gaming device or associated equipment, are manufactured,
21 assembled, produced, programmed, sold, leased, marketed,
22 distributed, repaired, or modified for use in gaming;

23 (2) for good cause, seize and remove from the premises
24 and impound equipment or supplies for the purpose of examination
25 and inspection; and

26 (3) demand access to, inspect, examine, photocopy, or
27 audit papers, books, and records of applicants and licensees, on

1 their premises or elsewhere as practicable, in the presence of the
2 licensee or the licensee's agent, reporting the gross income
3 produced by a gaming business and providing verification of the
4 gross income and other matters affecting the enforcement of this
5 chapter.

6 (d) For the purposes of conducting audits after the
7 cessation of gaming by a licensee, a former licensee shall furnish,
8 on demand of the executive director or the executive director's
9 authorized employees, books, papers, and records as necessary to
10 conduct the audits. The former licensee shall maintain all books,
11 papers, and records necessary for audits for three years after the
12 date of the surrender or revocation of the license. If the former
13 licensee seeks judicial review of a deficiency determination or
14 files a petition for a redetermination, the former licensee must
15 maintain all books, papers, and records until a final order is
16 entered on the determination.

17 Sec. 2004.102. RULEMAKING AUTHORITY. (a) The commission
18 shall adopt rules as the commission considers necessary or
19 desirable in the public interest in carrying out the policy and
20 provisions of this chapter.

21 (b) The rules shall set out:

22 (1) the method and form of application that an
23 applicant for a license must follow and complete before
24 consideration of an application by the commission;

25 (2) the information to be furnished by an applicant or
26 licensee concerning antecedents, habits, character, associates,
27 criminal record, business activities, and financial affairs;

1 (3) the criteria to be used in the award, revocation,
2 and suspension of licenses;

3 (4) the information to be furnished by a licensee
4 relating to the licensee's employees;

5 (5) the manner and procedure of hearings conducted by
6 the commission or a hearing examiner of the commission;

7 (6) the payment of fees or costs an applicant or
8 licensee must pay;

9 (7) the procedures for the issuance of temporary
10 licenses and temporary qualification to hold equity interests and
11 creditor interests in owner licensees;

12 (8) the manner and method of collection and payment of
13 fees and the issuance of licenses;

14 (9) the definition of unsuitable method of operation;

15 (10) the conditions under which the nonpayment of a
16 gambling debt by a licensee shall be deemed grounds for
17 disciplinary action;

18 (11) the manner of approval of new games, slot
19 machines, and gaming devices;

20 (12) access to confidential information obtained
21 under this chapter and means to ensure that the confidentiality of
22 the information is maintained and protected;

23 (13) financial reporting and internal control
24 requirements for licensees;

25 (14) the manner in which winnings, compensation from
26 games and gaming devices, and gross gaming revenue must be computed
27 and reported by an owner licensee;

1 (15) requirements for the annual audit of the
2 financial statements of a licensee;

3 (16) requirements for periodic financial reports from
4 each licensee consistent with standards and intervals prescribed by
5 the commission;

6 (17) the procedures to be followed by a licensee for
7 excluding a person from a casino; and

8 (18) the procedures for exempting or giving a waiver
9 to institutional investors from the licensing requirements for
10 shareholders of publicly traded corporations.

11 Sec. 2004.103. AUTHORITY OF EXECUTIVE DIRECTOR. (a) With
12 commission approval, the executive director may create executive
13 positions as the director considers necessary to implement the
14 provisions of this chapter.

15 (b) The executive director shall employ division directors
16 in the areas of audit, investigation, and enforcement. The
17 director of the audit division must be a certified public
18 accountant, have five or more years of progressively responsible
19 experience in general accounting, and have a comprehensive
20 knowledge of the principles and practices of corporate finance or
21 must possess the qualifications of an expert in the field of
22 corporate finance and auditing, general finance, gaming, and
23 economics. Other directors must possess five or more years of
24 training and experience in the fields of investigation, law
25 enforcement, law, or gaming.

26 (c) The executive director may investigate, for the purpose
27 of prosecution, a suspected criminal violation of this chapter.

1 For the purpose of the administration and enforcement of this
2 chapter, the executive director and employees designated by the
3 executive director may be commissioned as peace officers.

4 (d) The executive director, to further the objectives and
5 purposes of this chapter, may:

6 (1) direct and supervise all administrative actions of
7 the commission;

8 (2) bring legal action in the name and on behalf of the
9 commission;

10 (3) make, execute, and effect an agreement or contract
11 authorized by the commission;

12 (4) employ the services of persons considered
13 necessary for consultation or investigation and set the salaries of
14 or contract for the services of legal, professional, technical, and
15 operational personnel and consultants, except that outside legal
16 assistance may be retained only with the approval of the attorney
17 general;

18 (5) acquire furnishings, equipment, supplies,
19 stationery, books, and all other things the executive director
20 considers necessary or desirable in carrying out the executive
21 director's functions; and

22 (6) perform such other duties as the executive
23 director may consider necessary to effect the purposes of this
24 chapter.

25 (e) Except as otherwise provided in this chapter, the costs
26 of administration incurred by the executive director shall be paid
27 in the same manner as other claims against the state are paid.

1 Sec. 2004.104. OFFICE OF HEARING EXAMINERS. (a) The
2 commission shall create an office of hearing examiners to assist
3 the commission in carrying out its powers and duties.

4 (b) The office of hearing examiners shall hold hearings
5 under the authority of the commission on matters relating to the
6 commission's administration of this chapter as the commission
7 orders and shall report after hearing in the manner prescribed by
8 the commission. The commission shall refer any contested case
9 arising under this chapter to the office of hearing examiners.

10 (c) The office of hearing examiners is independent of the
11 executive director and is under the exclusive control of the
12 commission.

13 (d) The office of hearing examiners shall be under the
14 direction of a chief hearing examiner appointed by the commission.

15 (e) The commission may authorize the chief hearing examiner
16 to delegate to one or more hearing examiners the authority to hold
17 any hearing called by the chief hearing examiner.

18 (f) The chief hearing examiner and all assistant hearing
19 examiners employed by the office of hearing examiners must be
20 attorneys licensed to practice law in this state.

21 (g) The chief hearing examiner and all assistant hearing
22 examiners may administer oaths, receive evidence, and issue
23 subpoenas to compel the attendance of witnesses and the production
24 of papers and documents in all matters delegated by the commission.

25 (h) The chief hearing examiner and all assistant hearing
26 examiners are entitled to an annual salary and other compensation
27 specified by the commission.

1 (i) The office of hearing examiners may contract for
2 additional services it considers necessary to carry out its powers.

3 Sec. 2004.105. JUDICIAL REVIEW IN CONTESTED CASES. A final
4 ruling of the commission in a contested case is subject to judicial
5 review under Chapter 2001, Government Code. Judicial review is
6 under the substantial evidence rule.

7 Sec. 2004.106. RECORDS. (a) The executive director shall
8 maintain a file of all applications for licenses under this
9 chapter, together with a record of all action taken with respect to
10 the applications.

11 (b) The commission and the executive director may maintain
12 other records they consider desirable.

13 (c) The information made confidential by this subsection
14 may be revealed, wholly or partly, only in the course of the
15 necessary administration of this chapter, under Section 2004.552,
16 or on the order of a court of competent jurisdiction, except that
17 the executive director or the commission may disclose the
18 information to an authorized agent of any agency of the United
19 States, another state, or a political subdivision of this state as
20 authorized under commission rules. Notice of the content of any
21 information furnished or released under this subsection may be
22 given to any affected applicant or licensee as prescribed by
23 commission rule. The following information is confidential:

24 (1) information requested by the commission or the
25 executive director to be furnished to either of them under this
26 chapter or that may otherwise be obtained relating to the finances,
27 earnings, or revenue of an applicant or licensee;

1 (2) information pertaining to an applicant's criminal
2 record, antecedents, and background that has been furnished to or
3 obtained by the commission or the executive director from any
4 source;

5 (3) information provided to the commission or the
6 executive director or a commission employee by a governmental
7 agency or an informer or on the assurance that the information will
8 be held in confidence and treated as confidential; and

9 (4) information obtained by the executive director or
10 the commission from a casino service licensee relating to the
11 manufacturing, modification, or repair of slot machines or other
12 gaming devices.

13 Sec. 2004.107. REPRESENTATION BY ATTORNEY GENERAL.

14 (a) The attorney general shall represent the commission and the
15 executive director in any proceeding to which the commission or the
16 executive director is a party under this chapter or in any suit
17 filed against the commission or the executive director.

18 (b) The office of the attorney general on request shall
19 advise the commission and the executive director in all other
20 matters, including representing the commission when the commission
21 acts in its official capacity.

22 [Sections 2004.108-2004.150 reserved for expansion]

23 SUBCHAPTER D. OWNER'S LICENSE

24 Sec. 2004.151. OWNER'S LICENSE. (a) Gaming may lawfully
25 be conducted in a casino operating under an owner's license.

26 (b) It is unlawful for a person to own an equity interest in
27 a casino that conducts gaming in this state for which an owner's

1 license is not in effect.

2 (c) A separate owner's license must be obtained for each
3 casino conducting gaming.

4 Sec. 2004.152. ALLOCATION OF OWNER'S LICENSES. (a) The
5 commission shall award owner's licenses to applicants in counties
6 within the following population classifications:

7 (1) four owner's licenses may be awarded to a county
8 with a population of more than three million;

9 (2) not fewer than three owner's licenses may be
10 awarded to a county with a population of not less than two million
11 but not more than 2.5 million;

12 (3) not fewer than two but not more than three owner's
13 licenses may be awarded to a county with a population of not less
14 than 1.3 million but less than two million;

15 (4) not less than one owner's license may be awarded to
16 each county with a population of not less than 700,000 but less than
17 one million;

18 (b) Notwithstanding Subsection (a):

19 (1) not more than 24 owner's licenses may be issued by
20 the commission under this section;

21 (2) a license may not be issued in a county unless the
22 voters of the county or of a municipality located within the county
23 have adopted a proposition legalizing casino gaming at a local
24 option election held under this chapter;

25 (3) not more than four owner's licenses may be issued
26 in one county;

27 (4) a license may not be issued in a county or

1 municipality which contains a federally recognized Indian tribe or
2 tribal organization as listed by the United States secretary of
3 interior under 25 U.S.C. Section 479a-1 on January 1, 1998, and
4 which county or municipality contains premises designated by the
5 tribe or tribal organization for gambling or other gaming activity
6 on land that was recognized as tribal land of that tribe or tribal
7 organization by the federal government on January 1, 1998; and

8 (5) each county with a population of not less than
9 200,000 but less than 400,000 and which contains a barrier island in
10 the Gulf of Mexico and borders another state of the United States or
11 borders a foreign country shall be entitled to one owner's license.

12 (c) For purposes of determining the location of a casino, a
13 casino is considered to be located in the municipality in which the
14 main public entrance to the casino is located or, if the main public
15 entrance is located outside a municipality, in the county in which
16 the entrance is located.

17 (d) A person may not beneficially own, directly or
18 indirectly, an equity interest of more than five percent of the
19 total equity interest in more than three owner licensees.

20 (e) A person may not operate, either under an owner's
21 license or under an operator's license, more than three casinos.

22 (f) If gaming is not approved in a county, or in a
23 municipality within a county, to which an owner's license has been
24 allocated through a local option election in accordance with
25 Section 2004.651 within three years after the effective date of
26 this chapter, or if within that period no applicant for an owner's
27 license in a county that a license has been allocated to has been

1 awarded an owner's license by the commission, the commission may
2 award the licenses allocated to that county under Subsection (a) to
3 any other county at the commission's discretion.

4 Sec. 2004.153. ADDITIONAL OWNER'S LICENSES FOR CERTAIN
5 PARI-MUTUEL FACILITIES. (a) In addition to the owner's licenses
6 provided under Section 2004.152, the commission shall issue an
7 owner's license to be held in conjunction with each license to
8 operate a greyhound or Class I horse racetrack under the Texas
9 Racing Act (Article 179e, Vernon's Texas Civil Statutes) held on
10 the effective date of this chapter.

11 (b) The issuance of an owner's license under this section is
12 subject to the applicant's satisfaction of all application,
13 applicant eligibility, suitability, and other criteria applicable
14 to applicants under Section 2004.152, except those relating to
15 requisite economic impact under Section 2004.157. Except as
16 otherwise provided in Subsection (a), all provisions of this
17 chapter apply equally to licensees under this section and Section
18 2004.152.

19 (c) Notwithstanding anything to the contrary in the Texas
20 Racing Act (Article 179e, Vernon's Texas Civil Statutes), all
21 matters relating to owner's licenses issued under this section,
22 including licensing, manner of operation, and enforcement, are
23 regulated exclusively by the commission.

24 (d) Fees and taxes imposed with respect to owner's licenses
25 under this section shall be collected and paid as required by this
26 chapter.

27 (e) Except as to simulcast common pool wagering conducted in

1 a casino and except as otherwise authorized by the commission, the
2 casino operations and financial records of an owner licensee under
3 this section shall be kept separate from the racing operations and
4 records of the licensee.

5 (f) The commission shall adopt rules requiring the
6 continued common ownership of a casino licensed under this section
7 and the racetrack associated with the casino.

8 Sec. 2004.154. APPLICATION. (a) Application for an
9 owner's license shall be made according to the rules of the
10 commission and shall contain information the commission finds
11 necessary to determine the suitability and eligibility of the
12 applicant, the eligibility of the proposed location, and the
13 economic impact of the overall casino project.

14 (b) In addition to any other information the commission may
15 require, an application must include the following information
16 concerning the feasibility of the overall casino project:

17 (1) proof that gaming has been approved through a
18 local option election by the municipality in which the applicant's
19 proposed casino is to be located or, if the casino is proposed in an
20 unincorporated area, by the county in which the casino is to be
21 located;

22 (2) evidence that the applicant possesses, or has the
23 right to acquire, sufficient real property on which the proposed
24 casino will be located in order to make possible the applicant's
25 construction and operation of the casino project substantially as
26 proposed;

27 (3) evidence that the applicant possesses, or

1 reasonably expects to obtain, all state, county, and municipal
2 permits and approvals necessary for the construction and operation
3 of the proposed casino within the time periods prescribed in this
4 chapter;

5 (4) evidence that the applicant possesses, or
6 reasonably expects to obtain, all funds or financing necessary to
7 construct and operate the applicant's proposed casino within the
8 time periods prescribed in this chapter; and

9 (5) evidence that the applicant is prepared to begin
10 construction of its proposed casino promptly on receiving an
11 owner's license and to proceed with the construction of the casino
12 without unnecessary delay.

13 (c) An applicant may apply for more than one owner's license
14 relating to more than one casino but must submit a separate
15 application for each casino for which an owner's license is sought.

16 (d) An application for an owner's license must be
17 accompanied by the nonrefundable application fee prescribed by
18 Section 2004.351.

19 Sec. 2004.155. MANDATORY REQUIREMENTS. (a) During the
20 first two years an individual holds an owner's license, the
21 individual must be a resident of this state and comply with the
22 residency requirements established by the commission.

23 (b) A company is eligible to apply for and hold an owner's
24 license only if:

25 (1) the company is incorporated or organized and in
26 good standing in this state or organized under the laws of another
27 state of the United States and qualified to do business in this

1 state;

2 (2) the company complies with all the laws of this
3 state; and

4 (3) either of the following applies:

5 (A) persons who beneficially own at least
6 one-third of the equity interest of the company in accordance with
7 the beneficial ownership criteria established by the commission are
8 residents of this state under the residency requirements adopted by
9 the commission; or

10 (B) the company has held an owner's license for
11 two years or more.

12 (c) To be eligible to receive an owner's license to own a
13 casino located in a municipality or located in an unincorporated
14 area of a county, an applicant must submit its application to the
15 commission not less than 60 days after the later of:

16 (1) the date the governing body of the municipality or
17 county gives written notice to the commission under Section
18 2004.656 that gaming as authorized under this chapter has been
19 legalized through a local option election; or

20 (2) the date the commission establishes procedures for
21 application.

22 (d) An application that does not include the information
23 prescribed by Section 2004.154(b) or that is not accompanied by the
24 prescribed application fee may not be considered filed for purposes
25 of this chapter.

26 (e) This section does not supersede the residency land
27 ownership requirements prescribed in the Texas Racing Act (Article

1 179e, Vernon's Texas Civil Statutes) with respect to ownership and
2 operation of pari-mutuel racetracks.

3 Sec. 2004.156. LICENSE AWARD CONSIDERATIONS. (a) The
4 commission shall determine the initial and continuing suitability
5 of each applicant for or holder of an owner's license based on
6 suitability criteria the commission adopts to ensure that all owner
7 licensees are of good character, honesty, integrity, and financial
8 stability, that an owner licensee has sufficient business probity,
9 competence, and experience in gaming, and that an owner licensee is
10 otherwise qualified to be licensed.

11 (b) The commission shall give due consideration to the
12 protection of the public health, safety, morals, and general
13 welfare of the people of this state and to the reputation of the
14 state's gaming industry.

15 (c) The burden of proving suitability to receive or hold an
16 owner's license is on the applicant or licensee.

17 (d) In considering the initial and continuing suitability
18 of an applicant for or holder of an owner's license, the commission
19 may consider the suitability of:

20 (1) each person holding an equity interest or creditor
21 interest in the applicant or holder;

22 (2) each person holding, or proposed to receive, an
23 operator's license, occupational license, or manufacturer's
24 license or employed by or doing business with the applicant or
25 holder; and

26 (3) each affiliate of the applicant or holder.

27 (e) An applicant for or holder of an owner's license may not

1 receive or hold an owner's license if the person:

2 (1) has ever been convicted of a felony under the laws
3 of this state, any other state, or the United States;

4 (2) has ever been convicted of a gambling or gaming
5 violation under the laws of this state or any other state;

6 (3) has ever knowingly or intentionally submitted an
7 application for a license under this chapter that contained false
8 information;

9 (4) has ever served as a principal manager for a person
10 described by Subdivision (1), (2), or (3);

11 (5) retains or employs another person described by
12 Subdivision (1), (2), or (3);

13 (6) beneficially owns any material equity interest or
14 creditor interest in the applicant or holder and is a person
15 described by Subdivision (1), (2), or (3);

16 (7) holds a manufacturer's license or casino service
17 license;

18 (8) is a member of the commission; or

19 (9) is a member of the judiciary or an elected official
20 of this state.

21 (f) The commission may adopt rules providing for a person's
22 reciprocal determination of suitability to hold an owner's license
23 based on:

24 (1) a determination of suitability to own and operate
25 a casino in any other jurisdiction the commission considers
26 reasonable in light of the purpose of this chapter; or

27 (2) the person's ownership of a greyhound or Class I

1 horse racing facility under the Texas Racing Act (Article 179e,
2 Vernon's Texas Civil Statutes).

3 Sec. 2004.157. ECONOMIC IMPACT ANALYSIS. (a) In
4 determining whether or, in the case of multiple applicants
5 competing for a limited number of owner's licenses within a county,
6 to whom to grant an owner's license, the commission shall consider
7 the following factors:

8 (1) the relative prospective revenues to be collected
9 by the state from the conduct of gaming at the casino and the
10 overall economic impact of each competing applicant's proposed
11 casino and associated facilities;

12 (2) the relative number of residents of this state who
13 would be employed in an applicant's proposed casino and any
14 proposed associated hotel and nongaming businesses and the relative
15 extent of the applicant's good faith plan to recruit, train, and
16 promote a workforce that reflects the diverse populations of this
17 state in all employment classifications;

18 (3) the relative extent to which an applicant's
19 proposed casino and any proposed associated hotel and nongaming
20 businesses could be reasonably expected to encourage interstate
21 tourism to this state;

22 (4) the relative extent to which the scope, design,
23 location, and construction of an applicant's casino and any
24 associated hotel and nongaming businesses could be reasonably
25 expected to contribute to developing a first-class gaming industry
26 in this state; and

27 (5) the applicant's experience in conducting licensed

1 gaming operations and the applicant's financial ability to promptly
2 construct and adequately maintain the casino sought to be licensed,
3 including the experience of partners of the applicant, of
4 affiliated companies of the applicant or its partners, of key
5 personnel of the applicant or its partners, and of operating
6 companies under contract with the applicant.

7 (b) To ensure that the requisite level of economic
8 development benefiting the people of this state accompanies each
9 casino for which an owner's license is granted, the commission
10 shall require an applicant, as a condition to receiving and holding
11 an owner's license, to commit to provide new investment in
12 conjunction with the casino in the following amounts:

13 (1) a casino to be licensed in a county with a
14 population of one million or more must have a minimum project
15 commitment of \$100 million;

16 (2) a casino to be licensed in a county with a
17 population of 500,000 or more but less than one million must have a
18 minimum project commitment of \$80 million; and

19 (3) a casino to be licensed in a county with a
20 population of 200,000 or more but less than 400,000 must have a
21 minimum project commitment of \$60 million.

22 Sec. 2004.158. PROOF OF LOCAL OPTION ELECTION. The
23 commission may not accept an application for an owner's license
24 relating to a casino proposed to be located in a municipality or in
25 an unincorporated area of a county before receiving certification
26 from the governing body of the municipality or county that gaming
27 has been legalized through a local option election.

1 Sec. 2004.159. REVIEW OF APPLICATION. (a) The commission
2 shall issue an order approving or denying an application for an
3 owner's license not later than six months after the date the
4 application was filed.

5 (b) The commission may adopt rules for awarding temporary or
6 interim licensing the commission finds necessary in the
7 administration of this chapter.

8 Sec. 2004.160. TRANSFERABILITY. An owner's license is not
9 transferable and applies only to the specific site identified in
10 the license.

11 Sec. 2004.161. DENIAL AND REVOCATION. (a) The commission
12 may deny an application or revoke an owner's license for reasonable
13 cause.

14 (b) If the commission determines it has reasonable grounds
15 to believe that an owner licensee may be unsuitable to continue to
16 hold an owner's license, the commission shall conduct an
17 investigation and hearing under Section 2004.551 and may, based on
18 its determination, suspend, limit, or revoke the license. On
19 suspension or revocation of an owner's license, the licensee must
20 immediately cease all gaming.

21 (c) If the holder of an owner's license fails to begin
22 construction of a casino within one year after the receipt of the
23 owner's license or fails to begin gaming operations within three
24 years after the receipt of the license, the license is forfeited
25 unless the commission, for good cause, has previously granted an
26 appropriate extension of time.

27 (d) The right to receive and hold an owner's license is a

1 revocable privilege and not a right or property under the United
2 States Constitution or the Texas Constitution. An applicant for or
3 holder of an owner's license does not have a vested interest or
4 right in a license granted under this chapter.

5 Sec. 2004.162. REGISTRATION OF INTEREST IN LICENSE.

6 (a) Except as provided by Subsection (b), a person who directly or
7 indirectly owns an equity or creditor interest in an applicant for
8 or holder of an owner's license shall register and qualify with the
9 commission under commission rules and shall provide information the
10 commission finds necessary to determine the suitability and
11 eligibility of the person to retain the interest.

12 (b) The following persons are not required to register or
13 qualify under this section:

14 (1) a key employee of the owner licensee that is
15 required to apply for an occupational license under Section
16 2004.202;

17 (2) an institutional investor;

18 (3) a person that beneficially owns five percent or
19 less of the total equity or creditor interest of the owner licensee;
20 and

21 (4) any other group or class of persons that the
22 commission by rule exempts from registration or qualification.

23 (c) A registration filed under this section must be
24 accompanied by the application fee set out in Section 2004.351.

25 Sec. 2004.163. TRANSFERABILITY OF INTEREST. (a) Except as
26 provided by this subsection, an owner licensee may not issue an
27 equity or creditor interest to a person without the commission's

1 determination of the qualification of the proposed subscriber or
2 purchaser to hold the interest. An owner licensee that is a
3 publicly held company may issue equity or creditor interests of
4 five percent or less of its equity or creditor interest to any
5 person without the consent of the commission.

6 (b) A person beneficially owning more than five percent of
7 the equity or creditor interest of an owner licensee may not
8 transfer any portion of the interest in the licensee to any person
9 without the commission's determination of the qualification of the
10 proposed transferee to hold the interest.

11 (c) A subscriber or proposed transferee of an interest by an
12 owner licensee shall provide the commission with information the
13 commission considers necessary to determine the qualification of
14 the person. The commission, not later than the 60th day after the
15 date the application was filed, shall determine the qualification
16 of a subscriber or proposed transferee and approve or deny the
17 issuance or transfer.

18 Sec. 2004.164. DETERMINATION OF QUALIFICATION. (a) The
19 commission shall determine the qualification of a person to acquire
20 or continue to hold an equity or creditor interest in an applicant
21 for or holder of an owner's license based on the qualification
22 requirements the commission adopts for the protection of the public
23 interest to ensure that the persons holding securities issued by
24 licensees are of good character, honesty, integrity, and financial
25 stability and are otherwise qualified to hold the interest.

26 (b) The burden of proving qualification to acquire or hold
27 an equity or creditor interest in a licensee is on the person

1 acquiring or holding the interest.

2 (c) A person is unsuitable to acquire or retain an equity or
3 creditor interest in an applicant for or holder of an owner's
4 license if the person would be unsuitable to receive an owner's
5 license under Section 2004.156(e).

6 (d) If the commission has reasonable grounds to believe that
7 a person holding an equity or creditor interest in an applicant for
8 or holder of an owner licensee may be unqualified to retain its
9 interest, the commission shall conduct an investigation and hearing
10 under Section 2004.551 and may, based on its determination, issue
11 an unsuitability finding and divestiture order to the holder of the
12 interest and the issuer of the interest. On receipt of a
13 divestiture order, the person holding the interest shall tender its
14 entire interest for purchase to the issuer or a third party on terms
15 the commission approves.

16 (e) If the commission issues an unsuitability finding and
17 divestiture order to a holder of an equity interest or creditor
18 interest, the person subject to the order may not:

19 (1) receive, directly or indirectly, a dividend,
20 interest, payment, or distribution of any kind relating to the
21 security that is the subject of the order; or

22 (2) exercise, directly or indirectly, any voting power
23 or other right with respect to the security to which the order
24 relates.

25 (f) A person subject to an order may receive payment for the
26 sale of the person's interest on terms the commission approves.

27 [Sections 2004.165-2004.200 reserved for expansion]

1 SUBCHAPTER E. OPERATOR'S AND OCCUPATIONAL LICENSES

2 Sec. 2004.201. OPERATOR'S LICENSE. (a) A person may not
3 provide services as a casino operator without holding an operator's
4 license.

5 (b) A casino operator must hold a separate license for each
6 casino that the casino operator operates unless the operator is
7 also the owner of the premises and holds an owner's license for the
8 premises.

9 Sec. 2004.202. OCCUPATIONAL LICENSE. (a) A person may not
10 be employed as a gaming employee without holding an occupational
11 license.

12 (b) A holder of an owner's or operator's license is not
13 required to obtain an occupational license to provide services as a
14 gaming employee in the casino to which the license relates.

15 (c) An owner must at all times have not less than one
16 occupational licensee designated as a key employee having
17 responsibility over all gaming activities who shall be available at
18 the casino at all times when gaming is conducted on the licensee's
19 premises.

20 (d) A gaming employee designated or determined to be a key
21 employee by the commission shall be issued an occupational license
22 designated as a key employee occupational license. In determining
23 whether an employee is a key employee, the commission is not
24 restricted by the title of the job performed by the employee and may
25 consider the functions and responsibilities of the employee in
26 making decisions.

27 (e) A person employed in the field of gaming as a gaming

1 employee shall obtain an occupational license designated as a
2 support occupational license. A person required to hold a support
3 occupational license may not be a gaming employee of or assist the
4 owner or operator licensee until the employee obtains a support
5 occupational license. A person licensed as a key employee does not
6 need to obtain a support occupational license.

7 Sec. 2004.203. APPLICATION. (a) An application for an
8 operator's license or an occupational license must be made in
9 compliance with commission rules and must contain information the
10 commission finds necessary to determine the suitability and
11 eligibility of the applicant to function as a casino operator or to
12 be employed or retained as a gaming employee.

13 (b) An application for an operator's license or an
14 occupational license must be accompanied by the required
15 application fee.

16 (c) The commission may issue a temporary operator's license
17 and a temporary occupational license.

18 Sec. 2004.204. RESIDENCY. A person is eligible to apply for
19 and hold an operator's license or occupational license without
20 regard to the residency of the applicant.

21 Sec. 2004.205. DETERMINATION OF SUITABILITY. (a) The
22 commission shall determine the suitability of an applicant for or
23 holder of an operator's license or occupational license based on
24 suitability criteria the commission adopts in order to ensure that
25 a licensee:

26 (1) is of good character, honesty, and integrity;

27 (2) has sufficient business probity, competence, and

1 training or experience in the gaming industry to perform the
2 function contemplated; and

3 (3) is otherwise qualified to be licensed.

4 (b) The burden of proving suitability to receive and hold an
5 operator's license or occupational license is on the applicant or
6 licensee.

7 (c) In considering the suitability of a company applying for
8 or holding an operator's license or occupational license to receive
9 and continue to hold the license, the commission shall consider the
10 suitability of each principal manager and each holder of an equity
11 interest or creditor interest in the company to individually
12 receive and hold an occupational license based on the suitability
13 standards that apply to the applicants for the license generally.

14 (d) A person may not be found suitable to receive or hold an
15 operator's license or occupational license if that person would be
16 found unsuitable to hold an owner's license under Section
17 2004.156(e), except that an applicant for an operator's license or
18 occupational license who has been convicted of a felony may be found
19 suitable if the person is found to be adequately rehabilitated
20 under the rehabilitation requirements adopted by the commission and
21 the applicant or licensee is otherwise suitable for licensing.

22 Sec. 2004.206. DENIAL OR REVOCATION OF LICENSE. (a) The
23 commission may deny an application for or revoke an operator's
24 license or occupational license for any reasonable cause.

25 (b) If the commission determines that it has reasonable
26 grounds to believe that a licensee may be unsuitable to continue to
27 hold a license, giving due consideration to the protection of the

1 health, safety, morals, and general welfare of this state and to the
2 reputation of the state's gaming industry, the commission shall
3 conduct an investigation and hearing as provided by Section
4 2004.551 and may, based on its determination, suspend, limit, or
5 revoke any license.

6 (c) On the suspension or revocation of a license, the
7 licensee shall cease the provision of all services in any capacity
8 requiring a license under Section 2004.201 or 2004.202.

9 (d) A holder of an occupational license that has been
10 revoked or suspended may not:

11 (1) receive, directly or indirectly, any
12 compensation, consideration, or payment of any kind relating to the
13 conduct of gaming in any capacity requiring an occupational license
14 under Section 2004.201 or 2004.202, other than the payment for
15 services rendered before the suspension or revocation; or

16 (2) serve or function in a capacity that would require
17 a license under Section 2004.201 or 2004.202.

18 (e) The receipt and holding of a license is a privilege and
19 is not a right or property under the United States Constitution or
20 the Texas Constitution. An applicant for or holder of an operator's
21 license or occupational license does not have a vested interest or
22 right in a license granted under this chapter.

23 [Sections 2004.207-2004.250 reserved for expansion]

24 SUBCHAPTER F. MANUFACTURER'S AND OTHER SERVICE

25 PROVIDERS' LICENSES

26 Sec. 2004.251. MANUFACTURER'S LICENSE. (a) A person may
27 not engage in any segment of the slot machine manufacturing

1 industry in this state for which a manufacturer's license is
2 required under this section without obtaining a manufacturer's
3 license covering that segment of the industry.

4 (b) The commission shall adopt rules identifying segments
5 of the manufacturing industry directly involved in the design,
6 manufacture, assembly, production, programming, sale, lease,
7 marketing, distribution, repair, or modification of slot machines
8 or component parts of slot machines that the commission finds
9 appropriate for licensing under this section.

10 (c) A manufacturer's license is personal to the licensee and
11 allows the licensee to do business with any casino.

12 Sec. 2004.252. CASINO SERVICE LICENSE. (a) A person may
13 not engage in any segment of the casino service industry that
14 requires a license without obtaining a casino service license.

15 (b) The commission shall adopt rules identifying segments
16 of the casino service industry directly involved with providing
17 gaming-related services, equipment, and supplies that the
18 commission finds appropriate for licensing.

19 (c) A person is required to obtain a casino service license
20 if the person:

21 (1) operates, conducts, or maintains a gaming-related
22 business in a casino; or

23 (2) furnishes goods, property, or services to a casino
24 in exchange for:

25 (A) payment based on a percentage of the
26 earnings, profits, or receipts from the casino; or

27 (B) payment the commission finds to be grossly

1 disproportionate to the value of the goods, property, or service
2 provided.

3 (d) A utility company, a municipality, or another political
4 subdivision is not required to obtain a casino service license
5 under this section.

6 (e) A casino service license is personal to the licensee and
7 allows the licensee to do business with any casino.

8 Sec. 2004.253. APPLICATION. (a) Application for a
9 manufacturer's license or casino service license shall be made in
10 compliance with commission rules and shall contain information the
11 commission finds necessary to determine the suitability and
12 eligibility of the applicant.

13 (b) An application for a manufacturer's license or casino
14 service license must be accompanied by the required application
15 fee.

16 Sec. 2004.254. DETERMINATION OF SUITABILITY. (a) In
17 considering the suitability of a company applying for or holding a
18 manufacturer's license or casino service license to receive and
19 continue to hold the license, the commission shall consider the
20 suitability of each principal manager and each holder of an equity
21 interest or creditor interest in the applicant company to
22 individually receive and hold a manufacturer's license or casino
23 service license based on the suitability standards that apply to
24 the applicant company. A person may not be found suitable to
25 receive or hold a manufacturer's license or casino service license
26 if that person would be found unsuitable to hold an owner's license
27 under Section 2004.156(e).

1 (b) If the commission determines that it has reasonable
2 grounds to believe that a licensee is unsuitable to hold a
3 manufacturer's license or casino service license, the commission
4 shall conduct an investigation and hearing under Section 2004.551
5 and may, based on its determination, suspend, limit, or revoke a
6 license.

7 (c) On suspension or revocation of a license, the licensee
8 must cease the performance of manufacturing activity or casino
9 service requiring a license under this chapter. After the
10 revocation or suspension of the license, the affected licensee may
11 not receive, directly or indirectly, compensation, consideration,
12 or payment of any kind relating to manufacturing activity or
13 provision of casino services in any capacity requiring a license
14 under this chapter, other than the payment for goods or services
15 provided before the suspension or revocation.

16 (d) An owner or casino operator who has entered into a lease
17 with a manufacturer licensee or casino services licensee whose
18 license has been revoked or suspended may continue to make payments
19 on the lease based upon its original terms and conditions without
20 modification or may accelerate the lease and pay it off, at the sole
21 option of the owner or operator.

22 (e) The burden of proving suitability to receive and hold a
23 manufacturer's license or casino service license is on the
24 licensee.

25 [Sections 2004.255-2004.300 reserved for expansion]

26 SUBCHAPTER G. LICENSE RENEWAL

27 Sec. 2004.301. TERMS; RENEWAL; TEMPORARY LICENSE.

1 (a) Before the issuance of a license, the commission may issue a
2 temporary license for six months or less and may renew the temporary
3 license as many times as the commission finds appropriate on the
4 payment of the fee and execution of the bond, if required.

5 (b) The commission may issue a temporary license only to a
6 person it believes will be determined to be qualified based on:

7 (1) the commission's review of the background
8 investigations conducted by other state agencies or other United
9 States jurisdictions with gaming activities; and

10 (2) the commission's determination that there is
11 nothing in those background investigations of the applicant that
12 would cause the applicant not to qualify for a license in this
13 state.

14 (c) An original or renewal license expires on the first
15 anniversary of the date it is issued.

16 (d) The fee for an owner's, operator's, occupational,
17 manufacturer's, or casino service license is in the amount
18 established by Section 2004.352 and must be paid annually. A
19 licensee may renew an unexpired license annually by meeting the
20 licensing requirements of the commission and by paying the annual
21 fee.

22 [Sections 2004.302-2004.350 reserved for expansion]

23 SUBCHAPTER H. APPLICATION AND LICENSE FEES

24 Sec. 2004.351. APPLICATION FEES. (a) An applicant for an
25 owner's license during the first two years after the effective date
26 of this chapter must pay a \$250,000 nonrefundable application fee
27 for each application not later than the 30th day after the effective

1 date of this chapter. The fees shall be deposited in the Texas
2 casino gaming fund.

3 (b) Application fees tendered during the 30-day period
4 following the effective date of this chapter are not required to be
5 accompanied by an application. An application during the first two
6 years after the effective date of this chapter must be filed on a
7 date determined by commission rule.

8 (c) An application fee for an owner's license paid not later
9 than the 30th day after the effective date of this chapter must be
10 accompanied by a document indicating the name of the applicant or an
11 affiliate or partner of the applicant and the name of the county in
12 which the casino is proposed to be located.

13 (d) During the first two years after the effective date of
14 this chapter, an applicant may not apply for an owner's license for
15 a site in a county unless the application fee for a license in that
16 county was paid during the period set out in Subsection (a). If the
17 applicant seeks more than one license in a county during the first
18 two years after the effective date of this chapter, the applicant or
19 its affiliates or partners must file the number of application fees
20 designating that county that is equal to the number of licenses in
21 that county that the applicant is seeking.

22 (e) Notwithstanding Subsections (a)-(d), if no applicant
23 pays an application fee for a site in a specific county and a
24 municipality within a county or the county passes a local option
25 election approving casino gaming or if applicants pay application
26 fees for sites within a county and a municipality within the county
27 and the county fails to approve a local option election approving

1 casino gaming, the commission may accept applications for a site in
2 the jurisdiction that passes the local option election from persons
3 who have filed applications for other sites where a local option
4 election failed and for a site in other counties or municipalities
5 and apply the applicant's initial application fee to the new site.

6 (f) An applicant for an owner's license who has not
7 submitted an application fee under Subsection (a) or (e) must send
8 with its application a nonrefundable application fee of \$250,000.

9 (g) An applicant for a manufacturer's license must pay an
10 application fee of \$100,000.

11 (h) An applicant for an operator's license must pay an
12 application fee of \$50,000.

13 (i) An applicant for a casino service license must pay an
14 application fee of \$100.

15 (j) A person registering and applying to qualify to hold an
16 equity interest or creditor interest in a licensee must pay an
17 application fee of \$100.

18 (k) An individual applying for an occupational license must
19 pay an application fee of \$100.

20 (l) All application fees must be in the form of a money order
21 or cashier's check and be payable to the Texas Gaming Commission.
22 Application fees are nonrefundable.

23 (m) Application fees shall be applied toward the cost of
24 investigating applicants' suitability for licensing or
25 qualification under this chapter. Any costs of investigation
26 incurred in excess of the application fee shall be paid by the
27 applicant.

1 Texas higher education scholarship fund.

2 (d) The Texas higher education scholarship fund is a special
3 fund in the state treasury.

4 (e) All proceeds from the gaming tax imposed by Section
5 2004.451 that are allocated to the state shall be deposited to the
6 credit of the Texas higher education scholarship fund.

7 (f) The comptroller shall administer the Texas higher
8 education scholarship fund and shall develop a program for the
9 distribution of scholarships to all Texas students who qualify to
10 attend a Texas public college or university.

11 (g) The operation of the commission and the administration
12 of this chapter shall be supported by fees generated under this
13 chapter and by a portion of the gaming taxes imposed by Section
14 2004.451. The operation of the commission may never be a charge
15 against the general revenues of this state except to the extent
16 those revenues are raised by taxes or fees imposed on gaming
17 activities.

18 [Sections 2004.402-2004.450 reserved for expansion]

19 SUBCHAPTER J. TAX ON GROSS GAMING REVENUE

20 Sec. 2004.451. GAMING TAX; ALLOCATION OF TAX. (a) There
21 is imposed on each holder of an owner's license a gaming tax in an
22 amount equal to 15 percent of the gross gaming revenue of the casino
23 operated under the license. The tax shall be computed and paid on a
24 monthly basis as required by commission rule.

25 (b) Five-sixths of the tax imposed by this section, with the
26 exception provided by Subsection (d), is allocated to the Texas
27 higher education scholarship fund.

1 (c) Two-thirds and one-third of the remaining one-sixth of
2 the tax imposed by this section are allocated to the municipality
3 and county, respectively, in which the casino to which the license
4 relates is located, or, if the casino is located in an
5 unincorporated area, the remaining one-sixth of the tax imposed by
6 this section is allocated to the county in which the casino to which
7 the license relates is located.

8 (d) One-tenth of one percent of the gaming tax revenue
9 allocated to general revenue under Subsection (b) shall be
10 allocated to the Texas Commission on Alcohol and Drug Abuse for the
11 commission's compulsive gambling program under Section 461.018,
12 Health and Safety Code.

13 (e) The gaming taxes imposed by this section are due and
14 payable on or before the 20th day of the month following the month
15 in which the taxes are imposed.

16 (f) If the amount of gaming taxes required to be reported
17 and paid under this section is later determined to be greater than
18 or less than the amount actually reported and paid by the licensee,
19 the commission shall:

20 (1) assess and collect the additional gaming taxes
21 determined to be due with interest until paid; or

22 (2) refund any overpayment, with interest, to the
23 licensee.

24 (g) Interest must be computed, until paid, at the rate of
25 one percent per month from the first day of the first month
26 following either the due date of the additional gaming taxes or the
27 date of overpayment.

1 Sec. 2004.452. DETERMINATION OF GROSS GAMING REVENUE.

2 (a) In calculating gross gaming revenue, a prize, premium,
3 drawing, benefit, or ticket that is redeemable for money,
4 merchandise, or other promotional allowance, except money or tokens
5 paid at face value directly to a patron as the result of a specific
6 wager and the amount of cash paid to purchase an annuity to fund
7 winnings, may not be deducted as a loss from winnings at any game
8 except a slot machine.

9 (b) In calculating gross gaming revenue from slot machines,
10 the actual cost to the licensee of any personal property
11 distributed to a patron as the result of a legitimate wager may be
12 deducted as a loss, but travel expenses, food, refreshments,
13 lodging, or services at the licensee's facility may not be
14 deducted. For the purposes of this subsection, "as the result of a
15 legitimate wager" means that the patron must make a wager before
16 receiving the personal property, regardless of whether the receipt
17 of the personal property is dependent on the outcome of the wager.

18 (c) Cash or the value of noncash prizes awarded to patrons
19 in a contest or tournament are not losses for purposes of
20 determining gross gaming revenue.

21 Sec. 2004.453. REFUND OF OVERPAYMENT. (a) Gaming taxes
22 that are erroneously collected may be refunded, on approval of the
23 commission, as other claims against the state are paid.

24 (b) Not later than the 90th day after the date of the mailing
25 of the notice of the commission's action on a claim for refund filed
26 under this chapter, the claimant may bring an action against the
27 commission on the grounds stated in the claim in any court of

1 competent jurisdiction for the recovery of any part of the amount of
2 the claim that has been disallowed.

3 (c) Failure to bring an action within the time specified by
4 Subsection (b) constitutes a waiver of any demand against the state
5 on account of alleged overpayments.

6 (d) If the commission fails to mail its notice of action on a
7 claim within six months after the date the claim is filed, the
8 claimant may consider the claim disallowed and bring an action
9 against the commission, on the grounds set forth in the claim, for
10 the recovery of any part of the amount claimed as an overpayment.

11 (e) In a case where a refund is granted, interest is allowed
12 at the rates provided in Subtitle B, Title 2, Tax Code.

13 (f) A claim for refund of gaming taxes paid in excess of the
14 amount required to be reported and paid must be filed not later than
15 two years after the date of overpayment.

16 Sec. 2004.454. DETERMINATION OF DEFICIENCY. (a) If an
17 owner licensee fails to make a report of the gaming taxes as
18 required by this chapter or if the executive director is not
19 satisfied with the report of the gaming taxes required to be paid to
20 the state by an owner licensee under this chapter, the executive
21 director may compute and determine the amount required to be paid on
22 the basis of:

- 23 (1) the facts contained in the report, if any;
24 (2) an audit conducted by the executive director;
25 (3) an estimate of the amount of taxes due under this
26 chapter;
27 (4) any information in the commission's possession or

1 that may come in the executive director's possession; or

2 (5) any combination of the methods described by
3 Subdivisions (1)-(4).

4 (b) In making a determination under Subsection (a), the
5 commission may offset overpayments and interest due against
6 underpayments and interest or penalties due for the period of the
7 audit.

8 (c) The executive director shall give prompt written notice
9 of a determination of a deficiency under this section to the owner
10 licensee. Except in the case of fraud or intent to evade the
11 payment of the gaming tax fee imposed by this chapter, a notice of a
12 determination of a deficiency must be mailed not later than two
13 years after the last day of the calendar month following the
14 applicable reporting period in which the deficiency occurred or not
15 later than two years after the report is filed by the owner
16 licensee, whichever is later.

17 (d) If the reasons for the deficiency are not apparent, the
18 executive director shall include an explanation of those reasons in
19 the notice of a determination of a deficiency.

20 (e) If overpayments and interest exceed underpayments,
21 penalties, and interest, the excess payment shall be refunded to
22 the owner licensee.

23 Sec. 2004.455. PETITION FOR REVIEW. (a) An owner licensee
24 against whom a determination is made under Section 2004.454 may
25 petition the commission for a redetermination not later than the
26 30th day after the date of the service of notice of the
27 determination. If a petition for redetermination satisfying the

1 requirements of Subsection (c) is not filed within the 30-day
2 period, the determination becomes final.

3 (b) If a petition for redetermination satisfying the
4 requirements of Subsection (c) is filed within the 30-day period,
5 the commission shall reconsider the determination and, if the
6 petitioner requests, shall grant a hearing.

7 (c) A petition for redetermination must:

8 (1) specify the contested portions of the
9 determination of deficiency;

10 (2) specify the grounds for redetermination;

11 (3) state whether a hearing is requested; and

12 (4) be accompanied by payment in full of the
13 uncontested portion of the determination, including any interest
14 and penalties.

15 (d) An order or decision of the commission on a petition for
16 redetermination is final 10 days after the date of service on the
17 petitioner.

18 (e) A petitioner against whom an order or decision of the
19 commission becomes final may, not later than the 60th day after the
20 date the decision is final, petition for judicial review in the
21 manner provided by Chapter 2001, Government Code. The executive
22 director may not petition for judicial review.

23 Sec. 2004.456. CERTAIN POLITICAL SUBDIVISION TAXES
24 PROHIBITED. A county, municipality, or other political subdivision
25 of this state may not impose a license fee or tax on a person
26 licensed to conduct gaming under this chapter. This section does
27 not prohibit the imposition of generally applicable taxes or fees

1 for standard municipal services.

2 Sec. 2004.457. TAX ADMINISTRATION. (a) The commission
3 shall perform all functions incident to the administration,
4 collection, enforcement, and operation of a fee or tax imposed
5 under this chapter. The commission may adopt rules and prescribe
6 forms for the administration, collection, and enforcement of a fee
7 or tax and for the reporting of a fee or tax.

8 (b) Except as modified by this chapter, Subtitle B, Title 2,
9 Tax Code, applies to the administration, collection, and
10 enforcement of a tax imposed under this chapter. For purposes of
11 the application of Subtitle B, Title 2, Tax Code, to a tax imposed
12 under this chapter, the powers and duties assigned to the
13 comptroller under that subtitle are assigned to the commission.

14 [Sections 2004.458-2004.500 reserved for expansion]

15 SUBCHAPTER K. REGULATION OF CASINO OPERATIONS

16 Sec. 2004.501. REGULATION OF CASINO OPERATIONS. (a) The
17 commission shall adopt rules applicable to the operation of casinos
18 as the commission finds necessary for the protection of the health,
19 safety, morals, and general welfare of this state and for the
20 reputation of the state's gaming industry.

21 (b) Casinos are entitled to operate 24 hours a day, seven
22 days a week. A licensee may elect other hours of operation.

23 (c) The commission may not authorize a casino to conduct
24 wagering on the outcome of a sports event or sports activity other
25 than greyhound or horse racing.

26 Sec. 2004.502. USE OF CHIPS OR TOKENS. All gaming must be
27 conducted with chips or tokens approved by the commission or with

1 the legal tender of the United States.

2 Sec. 2004.503. REPORTING REQUIREMENTS. (a) An owner
3 licensee shall keep the licensee's books and records in a manner
4 that clearly shows the total amount of gross gaming revenue and
5 other revenues received.

6 (b) The books and records kept by an owner licensee relating
7 to gaming operations are not public records and the publication and
8 dissemination of the materials by the commission is prohibited.
9 The commission may publish and disseminate gaming revenues of each
10 owner licensee at a frequency and in the level of detail as it
11 considers appropriate.

12 (c) An owner licensee shall file a report of each change of
13 the corporate officers and directors with the commission. The
14 commission shall, not later than the 90th day after the date of the
15 change, approve or disapprove the change. During the 90-day
16 period, the officer or director is entitled to exercise the powers
17 of the office to which the officer or director was elected or
18 appointed.

19 (d) An owner licensee shall report to the executive director
20 in writing a change in company employees who have been designated as
21 key employees.

22 (e) The commission may require that a company furnish the
23 commission with a copy of its federal income tax return not later
24 than the 30th day after the date the return is filed with the
25 federal government.

26 Sec. 2004.504. EXCLUSION OF PERSONS. (a) The commission
27 by rule shall provide for the establishment of a list of persons who

1 are to be excluded or ejected from a casino. The list may include a
2 person whose presence in the establishment is determined by the
3 commission to pose a threat to the interests of this state, to
4 licensed gaming, or to both interests.

5 (b) In making a determination under this section, the
6 commission may consider any:

7 (1) prior conviction of a crime that is a felony in
8 this state or under the laws of the United States or a crime
9 involving moral turpitude or a violation of the gaming laws of a
10 state; or

11 (2) violation of or conspiracy to violate the
12 provisions of this chapter relating to:

13 (A) the failure to disclose an interest in a
14 gaming establishment for which the person must obtain a license;

15 (B) wilful evasion of a fee or a tax;

16 (C) a notorious or unsavory reputation that would
17 adversely affect public confidence and trust that the gaming
18 industry is free from criminal or corruptive elements; or

19 (D) a written order of a governmental agency that
20 authorizes the exclusion or ejection of the person from an
21 establishment where gaming or pari-mutuel wagering is conducted.

22 Sec. 2004.505. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) An
23 owner licensee shall adopt an internal control system that provides
24 for:

25 (1) the safeguarding of its assets and revenues,
26 especially the recording of cash and evidences of indebtedness; and

27 (2) the provision of reliable records, accounts, and

1 reports of transactions, operations, and events, including reports
2 to the executive director and the commission.

3 (b) The internal control system must be designed to
4 reasonably ensure that:

5 (1) assets are safeguarded;

6 (2) financial records are accurate and reliable;

7 (3) transactions are performed only in accordance with
8 management's general or specific authorization;

9 (4) transactions are recorded adequately to permit
10 proper reporting of gaming revenue and of fees and taxes and to
11 maintain accountability for assets;

12 (5) access to assets is permitted only in accordance
13 with management's specific authorization;

14 (6) recorded accountability for assets is compared
15 with actual assets at reasonable intervals and appropriate action
16 is taken with respect to any discrepancies; and

17 (7) functions, duties, and responsibilities are
18 appropriately segregated and performed in accordance with sound
19 practices by competent, qualified personnel.

20 (c) An owner licensee and an applicant for an owner's
21 license shall describe, in a manner approved or required by the
22 executive director, the licensee's or applicant's administrative
23 and accounting procedures in detail in a written system of internal
24 control. An owner licensee and applicant for an owner's license
25 shall submit a copy of the licensee's or applicant's written system
26 to the executive director. A written system must include:

27 (1) an organizational chart depicting appropriate

1 segregation of functions and responsibilities;

2 (2) a description of the duties and responsibilities
3 of each position shown on the organizational chart;

4 (3) a detailed, narrative description of the
5 administrative and accounting procedures designed to satisfy the
6 requirements of Section 2004.503(a);

7 (4) a written statement signed by the licensee's chief
8 financial officer and either the licensee's chief executive officer
9 or an owner licensee attesting that the system satisfies the
10 requirements of this section;

11 (5) if the written system is submitted by an
12 applicant, a letter from an independent certified public accountant
13 stating that the applicant's written system has been reviewed by
14 the certified public accountant and complies with the requirements
15 of this section; and

16 (6) other items the executive director may require.

17 (d) The commission shall adopt minimum standards for
18 internal control procedures.

19 Sec. 2004.506. AGE REQUIREMENTS. A person under the age of
20 21 years may not:

21 (1) play, be allowed to play, place wagers, or collect
22 winnings, personally or through an agent, from any gaming
23 authorized under this chapter; or

24 (2) be employed as a gaming employee.

25 Sec. 2004.507. ACCEPTANCE OF NEGOTIABLE INSTRUMENTS.

26 (a) A negotiable instrument evidencing a gaming transaction may be
27 enforced by legal process.

1 (b) A licensee may accept an incomplete negotiable
2 instrument that is signed by a patron and states the amount of the
3 debt. The licensee may complete the instrument as is necessary for
4 the instrument to be presented for payment.

5 (c) A licensee:

6 (1) may not accept a negotiable instrument that is
7 incomplete, except as authorized by Subsection (b); and

8 (2) may accept a negotiable instrument that is payable
9 to an affiliate or may complete a negotiable instrument in the name
10 of an affiliate as payee if the negotiable instrument otherwise
11 complies with this section and the records of the affiliate
12 pertaining to the negotiable instrument are made available to the
13 executive director on request.

14 (d) This section does not prohibit the establishment of an
15 account by a deposit of cash, recognized traveler's check, or any
16 other instrument that is equivalent to cash.

17 (e) A person or licensee or the agents or employees of the
18 person or licensee who violate this section are subject only to the
19 penalties provided in the provisions of this chapter relating to
20 disciplinary actions. The failure of a person to comply with this
21 section or the rules of the commission does not invalidate a
22 negotiable instrument or affect the ability to enforce the
23 negotiable instrument or the transaction that the negotiable
24 instrument represents.

25 Sec. 2004.508. GAMING DEBTS. (a) Except as otherwise
26 provided by this chapter, gaming debts not evidenced by a
27 negotiable instrument are void and unenforceable and do not give

1 rise to any administrative or civil cause of action.

2 (b) A claim by a patron of a licensee for payment of a gaming
3 debt not evidenced by a negotiable instrument may be resolved by the
4 executive director under commission rules.

5 (c) The executive director shall send a copy of the
6 director's ruling under Subsection (b) by first class mail to the
7 attorneys of record and shall keep an appropriate copy of the
8 mailing. If a party is not represented by an attorney of record,
9 the executive director shall send a copy of the ruling by first
10 class mail to the party and shall keep an appropriate record of the
11 mailing.

12 (d) A party or attorney of record notified by mail under
13 this section is presumed to have been notified on the date on which
14 the notice is mailed.

15 (e) A party aggrieved by the executive director's ruling is
16 entitled to have the claim resolved by the commission in a contested
17 case if the party files a written complaint with the commission
18 challenging the executive director's decision not later than the
19 20th day after the date on which the party or the party's attorney
20 of record is notified by mail.

21 Sec. 2004.509. DETENTION OF PERSONS. (a) An owner
22 licensee or the licensee's officers, employees, or agents may
23 question any person on the licensee's premises suspected of
24 violating any of the provisions of this chapter. An owner licensee
25 or any of the licensee's officers, employees, or agents is not
26 criminally or civilly liable:

27 (1) as a result of questioning; or

1 (2) for reporting the person suspected of the
2 violation to the executive director or law enforcement authorities.

3 (b) An owner licensee or the licensee's officer, employee,
4 or agent who has reasonable cause for believing that there has been
5 a violation of this chapter in the establishment by a person may
6 take that person into custody and detain the person in the
7 establishment in a reasonable manner and for a reasonable length of
8 time. The taking into custody and detention does not render the
9 licensee or the licensee's officer, employee, or agent criminally
10 or civilly liable unless it is established by clear and convincing
11 evidence that the taking into custody and detention are
12 unreasonable under all the circumstances.

13 (c) An owner licensee or the licensee's officer, employee,
14 or agent is not entitled to the immunity from liability provided in
15 Subsection (a) unless there is displayed in a conspicuous place in
16 the licensee's establishment a notice in boldface type, clearly
17 legible, and in substantially this form:

18 AN OWNER LICENSEE OR AN OWNER LICENSEE'S OFFICER, EMPLOYEE,
19 OR AGENT WHO HAS A REASONABLE CAUSE TO BELIEVE THAT A PERSON HAS
20 VIOLATED A PROVISION OF THE TEXAS HIGHER EDUCATION SCHOLARSHIP AND
21 GAMING CONTROL ACT MAY DETAIN THAT PERSON IN THE ESTABLISHMENT.

22 [Sections 2004.510-2004.550 reserved for expansion]

23 SUBCHAPTER L. ENFORCEMENT

24 Sec. 2004.551. ENFORCEMENT. (a) The executive director
25 shall conduct an appropriate investigation to:

26 (1) determine whether there has been a violation of
27 this chapter or of a commission rule;

1 (2) determine facts, conditions, practices, or
2 matters that the director considers necessary or proper to aid in
3 the enforcement of a law or rule;

4 (3) aid in adopting rules;

5 (4) secure information as a basis for recommending
6 legislation relating to this chapter; and

7 (5) determine whether a licensee is able to meet the
8 licensee's financial obligations, including all financial
9 obligations imposed by this chapter, as they become due.

10 (b) If after an investigation the executive director is
11 satisfied that a license, registration, finding of suitability, or
12 prior approval by the commission of a transaction for which
13 approval was required or permitted under this chapter should be
14 limited, conditioned, suspended, or revoked or that a fine should
15 be levied, the executive director shall initiate a hearing by
16 filing a complaint with the commission and transmit a summary of
17 evidence that bears on the matter and the transcript of testimony at
18 any investigative hearing conducted by or on behalf of the
19 executive director regarding the licensee. The complaint must be a
20 written statement of charges that must set forth in ordinary and
21 concise language the acts or omission with which the respondent is
22 charged. The complaint must specify the statute or rule that the
23 respondent is alleged to have violated. A complaint must contain a
24 factual allegation and shall not consist merely of charges raised
25 on the language of the statute or rule. On the filing of the
26 complaint, the executive director shall serve a copy of the
27 complaint on the respondent either personally or by registered or

1 certified mail at the respondent's address on file with the
2 executive director.

3 (c) Except as provided by Section 2004.455, the respondent
4 must answer the complaint not later than the 30th day after the date
5 of the service of the complaint.

6 (d) On receipt of the complaint of the executive director,
7 the commission shall review all matter presented in support of the
8 complaint and shall appoint a hearing examiner to conduct further
9 proceedings.

10 (e) The hearing examiner shall conduct proceedings under
11 Chapter 2001, Government Code. After the proceedings, the hearing
12 examiner may recommend that the commission take appropriate action,
13 including revocation, suspension, limitation or conditioning of a
14 license or imposition of a fine not to exceed \$5,000 for each
15 violation.

16 (f) The commission shall review the recommendation. The
17 commission may remand the case to the hearing examiner for the
18 presentation of additional evidence on a showing of good cause as to
19 why the evidence could not have been presented at the previous
20 hearing.

21 (g) The commission shall accept, reject, or modify the
22 recommendation.

23 (h) If the commission limits, conditions, suspends, or
24 revokes a license or imposes a fine, or limits, conditions,
25 suspends, or revokes a registration, finding of suitability, or
26 prior approval, the commission shall issue its written order.

27 (i) A limitation, condition, revocation, suspension, or

1 fine imposed is effective until reversed following judicial review,
2 except that the commission may stay its order pending a rehearing or
3 judicial review, on terms and conditions as it considers proper.

4 (j) Judicial review of an order or decision of the
5 commission may be had under Chapter 2001, Government Code.
6 Judicial review is under the substantial evidence rule.

7 Sec. 2004.552. PRIVILEGED DOCUMENTS. (a) A communication
8 or document of an applicant or licensee that is required by law or
9 commission rule or by a subpoena issued by the commission and that
10 is to be made or transmitted to the commission or the executive
11 director is privileged and does not impose liability for defamation
12 or constitute a ground for recovery in any civil action.

13 (b) If a document or communication contains information
14 that is privileged, the privilege is not waived or lost because the
15 document or communication is disclosed to the commission or the
16 executive director.

17 (c) Notwithstanding the powers granted to the commission
18 and the executive director by this chapter:

19 (1) without the prior written consent of the applicant
20 or licensee, the commission and the executive director may not
21 release or disclose privileged information, documents, or
22 communications provided by an applicant or licensee and required by
23 a lawful court order after timely notice of the proceedings has been
24 given to the applicant or licensee;

25 (2) the commission and the executive director shall
26 maintain all privileged information, documents, and communications
27 in a secure place accessible only to members of the commission and

1 the executive director; and

2 (3) the commission shall adopt procedures to protect
3 the privileged nature of information, documents, and
4 communications provided by an applicant or licensee.

5 Sec. 2004.553. RELEASE OF CONFIDENTIAL INFORMATION. An
6 application to a court for an order requiring the commission or the
7 executive director to release any information declared by law to be
8 confidential shall be made only on a motion in writing delivered not
9 later than the 10th day before the date of application to the
10 commission, the attorney general, and all persons who may be
11 affected by the entry of the order. Copies of the motion and all
12 papers filed in support of the motion shall be served with the
13 notice by delivering a copy in person or by certified mail to the
14 last known address of the person to be served.

15 Sec. 2004.554. EMERGENCY ORDERS. (a) The commission may
16 issue an emergency order for suspension, limitation, or
17 conditioning of a license, registration, finding of suitability, or
18 work permit or may issue an emergency order requiring a casino to
19 keep an individual licensee from the premises of the licensed
20 gaming establishment or to not pay the licensee any remuneration
21 for services or any profits, income, or accruals on the licensee's
22 investment in the casino.

23 (b) An emergency order may be issued only if the commission
24 determines that:

25 (1) a licensee has wilfully failed to report, pay, or
26 truthfully account for a fee imposed under this chapter or wilfully
27 attempted in any manner to evade or defeat a fee or payment;

1 (2) a licensee or gaming employee has cheated at a
2 gambling game; or

3 (3) the action is necessary for the immediate
4 preservation of the public peace, health, safety, morals, good
5 order, or general welfare.

6 (c) The emergency order must state the grounds on which it
7 is issued, including a statement of facts constituting the alleged
8 emergency necessitating the action.

9 (d) An emergency order may be issued only with the approval
10 of and under the signature of four or more members of the
11 commission.

12 (e) An emergency order is effective immediately on issuance
13 and service on the licensee or resident agent of the licensee,
14 gaming employee, or, in cases involving registration or findings of
15 suitability, on issuance and service on the person or entity
16 involved or the resident agent of the entity involved. An emergency
17 order may suspend, limit, condition, or take other action in
18 relation to the license of one or more persons in an operation
19 without affecting other individual licensees or the casino. An
20 emergency order remains effective until further order of the
21 commission or final disposition of the case.

22 (f) Not later than the fifth day after the date of issuance
23 of an emergency order, the executive director shall file a
24 complaint and serve it on the person or entity involved. The person
25 or entity against whom the emergency order has been issued and
26 served is entitled to a hearing before the commission and to
27 judicial review of the decision and order of the commission under

1 Chapter 2001, Government Code. Judicial review is under the
2 substantial evidence rule.

3 [Sections 2004.555-2004.600 reserved for expansion]

4 SUBCHAPTER M. PENALTIES AND OFFENSES

5 Sec. 2004.601. FAILURE TO PAY FEES. (a) License fees and
6 other fees required by this chapter must be paid to the commission
7 on or before the dates provided by law for each fee.

8 (b) A person failing to timely pay a fee or tax when due
9 shall pay in addition to the fee or tax a penalty of not less than
10 \$50 or 25 percent of the amount due, whichever is the greater. The
11 penalty may not exceed \$1,000 if the fee or tax is less than 10 days
12 late and may not exceed \$5,000 under any circumstances. The penalty
13 shall be collected as are other charges, license fees, and
14 penalties under this chapter.

15 Sec. 2004.602. FAILURE TO REPORT, PAY, OR ACCOUNT FOR FEE OR
16 TAX. (a) A person commits an offense if the person wilfully fails
17 to report, pay, or truthfully account for a fee or tax imposed under
18 this chapter or wilfully attempts in any manner to evade or defeat a
19 fee or tax.

20 (b) An offense under this section is a Class A misdemeanor.

21 Sec. 2004.603. FRAUD. (a) A person commits an offense if
22 the person knowingly:

23 (1) alters or misrepresents the outcome of a game or
24 other event on which wagers have been made after the outcome is made
25 sure but before it is revealed to the players;

26 (2) places, increases, or decreases a bet or
27 determines the course of play after acquiring knowledge, not

1 available to all players, of the outcome of the game or an event
2 that affects the outcome of the game or that is the subject of the
3 bet or aids anyone in acquiring such knowledge for the purpose of
4 placing, increasing, or decreasing a bet or determining the course
5 of play contingent on that event or outcome;

6 (3) claims, collects, or takes, or attempts to claim,
7 collect, or take, money or anything of value in or from a gambling
8 game, with intent to defraud, without having made a wager
9 contingent on the game, or claims, collects, or takes an amount
10 greater than the amount won;

11 (4) entices or induces another person to go to a place
12 where a gambling game is being conducted or operated in violation of
13 this chapter, with the intent that the other person play or
14 participate in that gambling game;

15 (5) places or increases a bet after acquiring
16 knowledge of the outcome of the game or other event that is the
17 subject of the bet, including past posting and pressing bets;

18 (6) reduces the amount wagered or cancels the bet
19 after acquiring knowledge of the outcome of the game or other event
20 that is the subject of the bet, including pinching bets; or

21 (7) manipulates, with the intent to cheat, a component
22 of a gaming device in a manner contrary to the designed and normal
23 operational purpose of the component, including varying the pull of
24 the handle of a slot machine, with knowledge that the manipulation
25 affects the outcome of the game or with knowledge of an event that
26 affects the outcome of the game.

27 (b) An offense under this section is a felony of the third

1 degree.

2 Sec. 2004.604. USE OF PROHIBITED DEVICES. (a) A person
3 commits an offense if the person, at a casino, uses or possesses
4 with the intent to use a device, other than a device customarily
5 used in the conduct of gaming, to assist in:

6 (1) projecting the outcome of the game;

7 (2) keeping track of the cards played;

8 (3) analyzing the probability of the occurrence of an
9 event relating to the game; or

10 (4) analyzing the strategy for playing or betting to
11 be used in the game.

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

14 Sec. 2004.605. USE OF COUNTERFEIT OR UNAUTHORIZED TOKEN,
15 CHIP, OR COIN. (a) A person commits an offense if the person
16 knowingly uses counterfeit chips or tokens in a gambling game.

17 (b) A person commits an offense if the person, in playing
18 any gambling game designed to be played with, to receive, or to be
19 operated by chips or tokens approved by the executive director or by
20 lawful coin of the United States of America:

21 (1) knowingly uses a chip, token, or coin other than
22 chips or tokens approved by the commission or lawful coin of the
23 United States of America or uses a coin not of the same denomination
24 as the coin intended to be used in that gambling game; or

25 (2) uses any device or means to violate the provisions
26 of this chapter.

27 (c) A person, other than an authorized employee of an owner

1 licensee acting in furtherance of the person's employment within an
2 establishment, commits an offense if the person knowingly has on
3 the person's body or in the person's possession on or off the
4 premises of a casino a device intended to be used to violate the
5 provisions of this chapter.

6 (d) A person, other than an authorized employee of an owner
7 licensee acting in furtherance of the person's employment within an
8 establishment, commits an offense if the person knowingly has on
9 the person's body or in the person's possession on or off the
10 premises of a casino a key or device known to have been designed for
11 the purpose of and suitable for opening, entering, or affecting the
12 operation of a gambling game, a drop box, or an electronic or
13 mechanical device connected to the game or box or for removing money
14 or other contents from the game or box.

15 (e) A person commits an offense if the person knowingly has
16 on the person's body or in the person's possession paraphernalia for
17 manufacturing slugs for use in gaming devices. In this subsection,
18 "paraphernalia for manufacturing slugs" means the equipment,
19 products, and materials that are intended for use or designed for
20 use in manufacturing, producing, fabricating, preparing, testing,
21 analyzing, packaging, storing, or concealing a counterfeit
22 facsimile of the chips or tokens approved by the executive director
23 or a lawful coin of the United States, the use of which is an offense
24 under Subsection (b). The term includes:

- 25 (1) lead or lead alloys;
26 (2) molds, forms, or similar equipment capable of
27 producing a likeness of a gaming token or United States coin;

1 (3) melting pots or other receptacles;

2 (4) torches; and

3 (5) tongs, trimming tools, or other similar equipment.

4 (f) Possession of more than one of the devices, equipment,
5 products, or materials described in this section permits a
6 rebuttable inference that the possessor intended to use them for
7 cheating.

8 (g) An offense under this section is a felony of the third
9 degree.

10 Sec. 2004.606. CHEATING. (a) A person commits an offense
11 if the person knowingly cheats at any gambling game.

12 (b) An offense under this section is a state jail felony.

13 Sec. 2004.607. POSSESSION OF UNLAWFUL DEVICES. (a) A
14 person commits an offense if the person knowingly possesses any
15 slot machine or other gaming device that has been manufactured,
16 sold, or distributed in violation of this chapter.

17 (b) An offense under this section is a Class A misdemeanor.

18 Sec. 2004.608. UNLAWFUL MANUFACTURE, SALE, OR DISTRIBUTION
19 OF GAMING EQUIPMENT. (a) A person commits an offense if the person
20 manufactures, sells, or distributes cards, chips, dice, a game, or
21 a device intended to be used to violate a provision of this chapter.

22 (b) A person commits an offense if the person marks, alters,
23 or otherwise modifies any associated equipment or gaming device in
24 a manner that:

25 (1) affects the result of a wager by determining win or
26 loss; or

27 (2) alters the normal criteria of random selection

1 that affect the operation of a game or determine the outcome of a
2 game.

3 (c) A person commits an offense if the person instructs
4 another person in cheating or in the use of a device for cheating at
5 any game authorized to be conducted at a casino, with the knowledge
6 or intent that the information or use may be employed to violate a
7 provision of this chapter.

8 (d) An offense under this section is a felony of the third
9 degree.

10 Sec. 2004.609. REPORTING PENALTIES. (a) A person commits
11 an offense if the person, in a license application, in a book or
12 record required to be maintained by this chapter or a rule adopted
13 under this chapter, or in a report required to be submitted by this
14 chapter or a rule adopted under this chapter:

15 (1) makes a statement or entry that the person knows to
16 be false or misleading; or

17 (2) knowingly fails to maintain or make an entry the
18 person knows is required to be maintained or made.

19 (b) A person commits an offense if the person knowingly
20 refuses to produce for inspection by the executive director a book,
21 record, or document required to be maintained or made by this
22 chapter or a rule adopted under this chapter.

23 (c) An offense under this section is a Class A misdemeanor.

24 Sec. 2004.610. GAMING BY MINORS. (a) A person commits an
25 offense if the person knowingly permits an individual that the
26 person knows is younger than 21 years of age to participate in
27 gaming at a casino.

1 (b) An individual younger than 21 years of age commits an
2 offense if the individual participates in gaming at a casino.

3 (c) An offense under this section is a Class C misdemeanor.

4 Sec. 2004.611. GENERAL PENALTY. (a) A person commits an
5 offense if the person knowingly or wilfully violates, attempts to
6 violate, or conspires to violate any of the provisions of this
7 chapter specifying a prohibited act.

8 (b) Unless another penalty is specified for the offense, an
9 offense under this section is a Class A misdemeanor.

10 [Sections 2004.612-2004.650 reserved for expansion]

11 SUBCHAPTER N. LOCAL OPTION ELECTIONS

12 Sec. 2004.651. ORDERING LOCAL OPTION ELECTION. The
13 governing body of a county or municipality may at any time order an
14 election to legalize casino gaming under this chapter in that
15 county or municipality, provided, however, that an election may not
16 be held before the date of the election at which the constitutional
17 amendment proposed by the 78th Legislature, Regular Session, 2003,
18 is submitted to the voters. The local option election authorized by
19 this section may be held on the same date as the election at which
20 the constitutional amendment proposed by the 78th Legislature,
21 Regular Session, 2003, is presented to the voters. The governing
22 body shall order and hold an election to legalize gaming under this
23 chapter in the county or municipality if the governing body is
24 presented with a petition that meets the requirements of Section
25 2004.652 and is certified as valid under Section 2004.653.

26 Sec. 2004.652. PETITION REQUIREMENTS. (a) A petition for
27 a legalization election must include a statement substantially as

1 follows before the space reserved for signatures on each page:
2 "This petition is to require that an election be held in (name of
3 county or municipality) to legalize casino gaming in (name of
4 county or municipality)."

5 (b) A petition is valid only if it is signed by registered
6 voters of the county or municipality in a number equal to or greater
7 than the lesser of:

8 (1) three percent of the number of votes cast for
9 governor by qualified voters of the county or municipality in the
10 most recent gubernatorial general election; or

11 (2) in an election to be held in a municipality, the
12 number specified in a municipality's charter.

13 (c) Each voter must enter beside the voter's signature the
14 date the voter signs the petition. A signature may not be counted
15 as valid if the date of signing is earlier than the 90th day before
16 the date the petition is submitted to the governing body. A
17 signature may be affixed to a petition before the effective date of
18 this section. A petition may not be presented to the governing body
19 of a county or municipality before the effective date of this
20 section.

21 (d) Each voter must provide on the petition the voter's
22 current voter registration number, printed name, and residence
23 address, including zip code.

24 Sec. 2004.653. VERIFICATION. (a) Not later than the fifth
25 day after the date a petition for an election under this chapter is
26 received in the office of the governing body, the governing body
27 shall submit the petition for verification to the municipal

1 secretary or county clerk, as applicable.

2 (b) The officer to whom the petition is submitted for
3 verification shall determine whether the petition is signed by the
4 required number of registered voters of the county or municipality.
5 Not later than the 30th day after the date the petition is submitted
6 to the officer for verification, the officer shall certify in
7 writing to the governing body whether the petition is valid or
8 invalid. If the officer determines that the petition is invalid,
9 the officer shall state the reasons for that determination.

10 Sec. 2004.654. ORDERING ELECTION. If the municipal
11 secretary or county clerk, as applicable, certifies that a petition
12 is valid, not later than the 30th day after the date of
13 certification, the governing body shall order that an election be
14 held in the municipality or county on the next uniform election date
15 under Section 41.001, Election Code, that occurs after the 45th day
16 after the date on which the governing body orders the election. The
17 governing body shall state in the order the issue to be voted on.
18 The municipal secretary or county clerk shall notify the commission
19 by certified mail, return receipt requested, that an election has
20 been ordered.

21 Sec. 2004.655. BALLOT PROPOSITION. The ballot in a
22 legalization election shall be printed to provide for voting for or
23 against the proposition: "Legalizing casino gaming within (name of
24 county or municipality)."

25 Sec. 2004.656. ELECTION RESULTS. (a) If the majority of
26 the votes cast in a legalization election favor the legalization of
27 casino gaming, casino gaming authorized under this chapter is

1 permitted within the county or municipality holding the election
2 effective on the 10th day after the date of the election.

3 (b) The governing body of a county or municipality in which
4 a legalization election has been held shall give written notice of
5 the results of the election to the commission not later than the
6 third day after the date the election is canvassed.

7 (c) If less than a majority of the votes cast in a
8 legalization election in any county or municipality are cast in
9 favor of the legalization of casino gaming, casino gaming is not
10 permitted in the county or municipality and a subsequent election
11 on the issue may not be held in the county or municipality before
12 the corresponding uniform election date one year after the date of
13 the election.

14 (d) If less than a majority of the votes cast in two
15 consecutive legalization elections within any county or
16 municipality are cast in favor of the legalization of casino
17 gaming, casino gaming is not permitted in the county or
18 municipality and a subsequent election on the issue may not be held
19 in the county or municipality before the corresponding uniform
20 election date five years after the date of the election.

21 (e) A countywide legalization election does not permit
22 casino gaming in any municipality within the county unless casino
23 gaming is legalized within the municipality through a separate
24 municipal legalization election. The failure of any countywide
25 legalization election has no effect on subsequent elections in
26 municipalities located within the county, and the failure of any
27 municipal legalization election has no effect on subsequent

1 countywide legalization elections.

2 SECTION 2. Subsection (c), Section 47.02, Penal Code, is
3 amended to read as follows:

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

6 (1) was permitted under Chapter 2001, Occupations
7 Code;

8 (2) was permitted under Chapter 2002, Occupations
9 Code;

10 (3) consisted entirely of participation in the state
11 lottery authorized by the State Lottery Act (Chapter 466,
12 Government Code);

13 (4) was permitted under the Texas Racing Act (Article
14 179e, Vernon's Texas Civil Statutes); [~~or~~]

15 (5) consisted entirely of participation in a drawing
16 for the opportunity to participate in a hunting, fishing, or other
17 recreational event conducted by the Parks and Wildlife Department;
18 or

19 (6) was permitted under the Texas Higher Education
20 Scholarship and Gaming Control Act (Chapter 2004, Occupations
21 Code).

22 SECTION 3. Subsection (f), Section 47.06, Penal Code, is
23 amended to read as follows:

24 (f) It is a defense to prosecution under Subsection (a) or
25 (c) that the person owned, manufactured, transferred, or possessed
26 the gambling device, equipment, or paraphernalia for the sole
27 purpose of shipping it:

1 (1) to a casino licensed under Chapter 2004,
2 Occupations Code, for casino gaming; or

3 (2) to another jurisdiction where the possession or
4 use of the device, equipment, or paraphernalia was legal.

5 SECTION 4. Subsection (a), Section 47.09, Penal Code, is
6 amended to read as follows:

7 (a) It is a defense to prosecution under this chapter that
8 the conduct:

9 (1) was authorized under:

10 (A) Chapter 2001, Occupations Code;

11 (B) Chapter 2002, Occupations Code; ~~or~~

12 (C) the Texas Racing Act (Article 179e, Vernon's
13 Texas Civil Statutes); or

14 (D) the Texas Higher Education Scholarship and
15 Gaming Control Act (Chapter 2004, Occupations Code);

16 (2) consisted entirely of participation in gambling or
17 other gaming activity of a type that is or may be permitted under
18 the Indian Gaming Regulatory Act (25 U.S.C. Section 2701 et seq.),
19 as amended, without regard to whether the gambling or gaming
20 activity is conducted by an Indian tribe to which that Act applies,
21 if the gambling or gaming activity is conducted:

22 (A) by a federally recognized Indian tribe or
23 tribal organization as listed by the United States secretary of the
24 interior under 25 U.S.C. Section 479a-1 on January 1, 1998; and

25 (B) on premises designated by the tribe or tribal
26 organization for that gambling or other gaming activity on land
27 that is recognized as tribal land of that tribe or tribal

1 organization by the federal government on January 1, 1998;

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

4 (4) [~~(3)~~] was a necessary incident to the operation of
5 the state lottery and was directly or indirectly authorized by:

6 (A) Chapter 466, Government Code;

7 (B) the lottery division of the Texas Lottery
8 Commission;

9 (C) the Texas Lottery Commission; or

10 (D) the director of the lottery division of the
11 Texas Lottery Commission.

12 SECTION 5. Subchapter H, Chapter 151, Tax Code, is amended
13 by adding Section 151.356 to read as follows:

14 Sec. 151.356. ELECTRONIC AND ELECTROMECHANICAL GAMING
15 DEVICES. An electronic or electromechanical gaming device
16 permitted under the Texas Higher Education Scholarship and Gaming
17 Control Act (Chapter 2004, Occupations Code) is exempt from the tax
18 imposed by this chapter and from the other provisions of this
19 chapter.

20 SECTION 6. Section 11.05, Texas Racing Act (Article 179e,
21 Vernon's Texas Civil Statutes), is amended to read as follows:

22 Sec. 11.05. UNLAWFUL WAGERING. A person shall not wager on
23 the result of a greyhound race or horse race in this state except as
24 permitted by this Act or by the Texas Higher Education Scholarship
25 and Gaming Control Act (Chapter 2004, Occupations Code).

26 SECTION 7. The governor, the lieutenant governor, and the
27 speaker of the house of representatives shall make the initial

1 appointments to the Texas Gaming Commission not later than the 30th
2 day after the effective date of this Act. The three appointees
3 shall draw lots to determine the expiration of terms, with one term
4 expiring in 2005, one term expiring in 2007, and one term expiring
5 in 2009.

6 SECTION 8. This Act takes effect on the date on which the
7 constitutional amendment proposed by the 78th Legislature, Regular
8 Session, 2003, authorizing casino gaming takes effect. If that
9 amendment is not approved by the voters, this Act has no effect.