

By: Flores

H.B. No. 1337

A BILL TO BE ENTITLED

AN ACT

relating to the authorization and regulation of casino gambling and to the creation, powers, and duties of the Texas Gaming Commission; authorizing taxes; providing civil and criminal penalties.

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

SECTION 1. Subtitle A, Title 13, Occupations Code, is amended by adding Chapter 2004 to read as follows:

CHAPTER 2004. CASINO GAMBLING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2004.001. SHORT TITLE. This chapter may be cited as the Texas Economic Development and Gaming Control Act.

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

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

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

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

(3) the regulation of gaming in this state is

1 important to ensure that gaming is:

2 (A) conducted honestly and competitively; and

3 (B) free from criminal and corruptive elements;

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

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

12 (6) certain operators and employees of casinos should  
13 be regulated, licensed, and controlled to accomplish and promote  
14 these public policies while protecting the public health, safety,  
15 morals, good order, and general welfare of the people of this state;

16 (7) certain persons engaging in the casino service  
17 industry should be regulated, licensed, and controlled to  
18 accomplish and promote these public policies while protecting the  
19 public health, safety, morals, good order, and general welfare of  
20 the people of this state; and

21 (8) it is the intent of this chapter, where possible,  
22 to use the resources, goods, labor, and services of the people of  
23 this state in the operation and construction of casinos and  
24 casino-related amenities to the extent allowable by law.

25 Sec. 2004.003. DEFINITIONS. In this chapter:

26 (1) "Affiliate" means a person who, directly or  
27 indirectly through one or more intermediaries, controls, is

1 controlled by, or is under common control with another person. A  
2 person is considered to control a company if the person  
3 beneficially owns more than a five percent equity interest in the  
4 company under the beneficial ownership rules adopted by the  
5 commission.

6 (2) "Applicant" means a person who has applied for an  
7 owner's license, an operator's license, an occupational license, a  
8 manufacturer's license, a casino service license, or a  
9 qualification to hold an equity interest or creditor interest in an  
10 owner licensee or who has applied for the approval of any act or  
11 transaction for which approval is required or permitted under this  
12 chapter.

13 (3) "Associated equipment" means any equipment or  
14 mechanical, electromechanical, or electronic contrivance,  
15 component, or machine used in connection with gaming or with any  
16 game that would not otherwise be classified as a gaming device,  
17 including dice, playing cards, links connecting progressive slot  
18 machines, equipment affecting the proper reporting of gross gaming  
19 revenue, computerized systems or software for monitoring slot  
20 machines, and devices for weighing or counting money.

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

24 (5) "Casino operator" means a person, other than the  
25 owner licensee, who contractually agrees to provide operational and  
26 managerial services for the operation of a casino on behalf of the  
27 owner licensee in return for receiving a payment based in whole or

1 part on profits or receipts from the casino.

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

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

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

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

11 (10) "Commission member" means a member of the  
12 commission.

13 (11) "Company" means a corporation, partnership,  
14 limited partnership, trust, association, joint stock company,  
15 joint venture, limited liability company, or other form of business  
16 organization, but does not include a sole proprietorship or natural  
17 person.

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

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

26 (14) "Equity interest" means a proprietary interest,  
27 right, or claim allowing the holder either to vote with respect to

1 matters of organizational governance or to participate in the  
2 profits and residual assets of a company, including common and  
3 preferred stock in a corporation, a general or limited partnership  
4 interest in a partnership, a similar interest in any other form of  
5 business organization, and a warrant, right, or similar interest  
6 convertible into, or to subscribe for, a proprietary right or  
7 claim, with or without the payment of additional consideration.

8 (15) "Executive director" means the executive  
9 director of the commission.

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

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

15 (A) means any game or similar activity that  
16 involves the making of a bet, as defined by Section 47.01, Penal  
17 Code, for consideration, and includes:

18 (i) a banking or percentage game played  
19 with cards, dice, or a mechanical, electromechanical, or electronic  
20 device or machine for money, property, checks, credit, or a  
21 representative of value, including roulette, keno, twenty-one,  
22 blackjack, craps, poker, chuck-a-luck (dai shu), wheel of fortune,  
23 chemin de fer, baccarat, pai gow, slot machine, any other  
24 electronic game of chance, and any other game or device approved by  
25 the commission;

26 (ii) simulcast wagering on pari-mutuel  
27 greyhound or horse racing;

1                   (iii) the maintenance of a race book; and  
2                   (iv) any other method of effecting a wager  
3 approved by the commission; and

4                   (B) does not include:

5                   (i) bingo, as authorized by Chapter 2001;  
6                   (ii) charitable raffles, as authorized by  
7 Chapter 2002; or  
8                   (iii) the state lottery conducted under  
9 Chapter 466, Government Code.

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

12                   (19) "Gaming device" means a mechanical,  
13 electromechanical, or electronic contrivance, component, or  
14 machine used in connection with gaming or a game that affects the  
15 result of a wager by determining win or loss. The term includes a  
16 system for processing information that can alter the normal  
17 criteria of random selection, affect the operation of a game, or  
18 determine the outcome of a game.

19                   (20) "Gaming employee":

20                   (A) means an individual directly involved in the  
21 operation or conduct of gaming in a casino performing a service in a  
22 capacity that the commission finds appropriate for occupational  
23 licensing under Section 2004.202 and includes:

24                   (i) a boxman, a cashier, change personnel,  
25 counting room personnel, a dealer, a floor person, a host empowered  
26 to extend credit or complimentary services, a keno runner, a keno  
27 writer, a machine mechanic, or security personnel;

1                   (ii) a shift or pit boss or a supervisor or  
2 manager involved in gaming activities;

3                   (iii) accounting or internal auditing  
4 personnel directly involved in recordkeeping or the examination of  
5 records generated from gaming activities; and

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

9                   (B) does not include bartenders, cocktail  
10 waitresses, or other individuals engaged exclusively in preparing  
11 or serving food or beverages or individuals providing nominal,  
12 complimentary, or maintenance services.

13                   (21) "Gross gaming revenue":

14                   (A) means the total of the following, less the  
15 total of all cash paid out as losses to patrons and those amounts  
16 paid to purchase annuities to fund losses paid to patrons by  
17 independent financial institutions and items made deductible as  
18 losses under Section 2004.452:

19                   (i) cash received by an owner licensee as  
20 winnings;

21                   (ii) cash received by an owner licensee in  
22 payment for credit extended by the owner licensee to a patron for  
23 the purposes of gaming; and

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

27                   (B) does not include:

1                   (i) counterfeit money or tokens;

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

4                   (iii) cash taken in fraudulent acts  
5 perpetrated against an owner licensee for which the licensee is not  
6 reimbursed; or

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

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

11                   (23) "Institutional investor" means a person, other  
12 than a state or federal pension plan, that meets the requirements of  
13 a "qualified institutional buyer" as defined in Section 144A,  
14 Securities Act of 1933 (17 C.F.R. Section 230.144A), as amended,  
15 and is:

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

19                   (B) an insurance company as defined in Section  
20 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section 80a-2),  
21 as amended;

22                   (C) an investment company registered under  
23 Section 8, Investment Company Act of 1940 (15 U.S.C. Section  
24 80a-8), as amended;

25                   (D) an investment adviser registered under  
26 Section 203, Investment Advisers Act of 1940 (15 U.S.C. Section  
27 80b-3), as amended;



1                   (E) a collective trust fund as defined by Section  
2 3(c)(11), Investment Company Act of 1940 (15 U.S.C. Section 80a-3),  
3 as amended;

4                   (F) an employee benefit plan or pension fund that  
5 is subject to the Employee Retirement Income Security Act of 1974  
6 (29 U.S.C. Section 1001 et seq.), as amended, excluding an employee  
7 benefit plan or pension fund sponsored by a publicly traded  
8 corporation registered with the commission;

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

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

12                   (I) such other persons as the commission may  
13 determine for reasons consistent with the policies expressed in  
14 Section 2004.002.

15                   (24) "Key executive" means a corporation's directors  
16 and executive officers, a partnership's general partners, a trust's  
17 trustee, a joint venture's managing venturers, and each person  
18 possessing similar responsibilities and authorities in any other  
19 form of business organization.

20                   (25) "License" means an owner's license, an operator's  
21 license, an occupational license, a casino service license, a  
22 manufacturer's license, or a qualification to hold an equity  
23 interest or creditor interest in an owner's licensee.

24                   (26) "Licensee" means a person holding a license  
25 issued under this chapter.

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

1           (28) "Manufacturer's license" means a license issued  
2 under Section 2004.251.

3           (29) "Negotiable instrument" means a writing that  
4 evidences a transaction between a natural person and an owner  
5 licensee at the time of the transaction whose gaming chips, tokens,  
6 or currency are exchanged for the instrument and includes a writing  
7 taken in consolidation, redemption, or payment of a prior  
8 instrument.

9           (30) "Occupational license" means a license issued  
10 under Section 2004.202.

11           (31) "Occupational licensee" means the holder of an  
12 occupational license.

13           (32) "Operator's license" means a license issued under  
14 Section 2004.201.

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

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

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

21           (36) "Principal manager" means a person who, as  
22 determined under the rules of the commission, holds or exercises  
23 managerial, supervisory, or policy-making authority over the  
24 management or operation of a gaming activity or casino service that  
25 in the judgment of the commission warrants the occupational  
26 licensing as a principal manager for the protection of the public  
27 interest. "Principal manager" includes a key executive of a

1 licensee that is a company and each person controlling a licensee  
2 that is a company.

3 (37) "Project commitment" means, with respect to an  
4 application for an owner's license for a proposed casino, the total  
5 cost of constructing and furnishing the casino and any related  
6 hotel and entertainment, retail, and parking facilities, including  
7 the cost of acquiring and preparing the underlying real estate, the  
8 cost of obtaining requisite permits and approvals, the cost of  
9 acquiring and installing slot machines, gaming devices, and  
10 associated equipment, and fees for professional services and  
11 financing.

12 (38) "Publicly traded company":

13 (A) means a company that:

14 (i) has one or more classes of securities  
15 registered under Section 12, Securities Exchange Act of 1934 (15  
16 U.S.C. Section 781), as amended; or

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

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

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

1           (40) "Slot machine" means a mechanical, electrical, or  
2 other device or machine that, on insertion of a coin, token, or  
3 similar object or on payment of consideration, is available to play  
4 or operate, the play or operation of which, in whole or part by the  
5 element of chance, may deliver or entitle the person playing or  
6 operating the machine to receive cash, premiums, merchandise,  
7 tokens, or any other thing of value, whether the payoff is made  
8 automatically from the machine or is made in another manner.

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

12           (b) All shipments of gaming devices into this state,  
13 including slot machines, the registering, recording, and labeling  
14 of which has been performed by the supplier under Sections 3 and 4  
15 of the act of the Congress of the United States entitled "An act to  
16 prohibit transportation of gambling devices in interstate and  
17 foreign commerce," approved January 2, 1951, Chapter 1194, 64 Stat.  
18 1134, designated as 15 U.S.C. Sections 1171-1178, are legal  
19 shipments of the devices into this state.

20           Sec. 2004.005. APPLICATION OF SUNSET ACT. The Texas Gaming  
21 Commission is subject to Chapter 325, Government Code (Texas Sunset  
22 Act). Unless continued in existence as provided by that chapter,  
23 the commission is abolished and this chapter expires September 1,  
24 2017.

25           [Sections 2004.006-2004.050 reserved for expansion]

26           SUBCHAPTER B. TEXAS GAMING COMMISSION

27           Sec. 2004.051. TEXAS GAMING COMMISSION. (a) The Texas

1 Gaming Commission is composed of seven members. Six members shall  
2 be appointed by the governor. The chairman of the Public Safety  
3 Commission is an ex officio voting member of the commission.

4 (b) In making appointments to the commission, the governor  
5 shall attempt to achieve representation of all the population  
6 groups of this state.

7 Sec. 2004.052. QUALIFICATIONS OF COMMISSION MEMBERS. (a)  
8 To be eligible for appointment to the commission, an individual:

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

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

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

14 (4) may not own a financial or other interest in a  
15 person engaged in the conduct of gaming or the provision of casino  
16 services, or in a security issued by that person, or be related  
17 within the second degree by affinity or the third degree by  
18 consanguinity, as determined under Chapter 573, Government Code, to  
19 an individual who owns a financial or other interest or security;

20 (5) may not be an applicant for or holder of a license  
21 under this chapter or hold an equity interest or creditor interest  
22 in an owner licensee requiring qualification under Section  
23 2004.163; and

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

26 (b) A person holding an elective office or an officer or  
27 official of a political party is not eligible for appointment to the

1 commission.

2 Sec. 2004.053. TERM. Appointed members of the commission  
3 hold office for staggered terms of six years. The terms of two  
4 members expire February 1 of each odd-numbered year.

5 Sec. 2004.054. PRESIDING OFFICER. The governor shall  
6 designate one member to serve as presiding officer of the  
7 commission for a term of two years.

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

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

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

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

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

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

21 (b) A commission member or the spouse of a commission member  
22 may not solicit or accept employment from a licensee or an applicant  
23 for a license before the second anniversary of the date the  
24 commission member's service on the commission ends.

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

27 (1) does not have at the time of appointment the

1 qualifications required for appointment to the commission;

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

4 (3) violates a prohibition established by Section  
5 2004.056;

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

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

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

16 (c) If the presiding officer has knowledge that a potential  
17 ground for removal exists, the presiding officer shall notify the  
18 governor and the attorney general.

19 Sec. 2004.0571. APPLICATION OF FINANCIAL DISCLOSURE LAW.  
20 For purposes of Chapter 572, Government Code, a member of the  
21 commission, the executive director, and the division directors are  
22 appointed officers of a major state agency.

23 Sec. 2004.058. PER DIEM; EXPENSES. (a) Each appointed  
24 member of the commission is entitled to:

25 (1) a per diem in an amount prescribed by  
26 appropriation for each day spent in performing the duties of the  
27 member; and

1           (2) reimbursement for actual and necessary expenses  
2 incurred in performing those duties.

3           (b) Reimbursement for expenses under this section is  
4 subject to any applicable limitation in the General Appropriations  
5 Act.

6           (c) The ex officio member is entitled to reimbursement for  
7 expenses from that member's agency as provided by law for expenses  
8 incurred in the performance of that member's other official duties.

9           Sec. 2004.059. EXECUTIVE DIRECTOR. (a) The commission  
10 shall appoint an executive director, who serves at the pleasure of  
11 the commission.

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

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

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

20           (e) The executive director must meet all eligibility  
21 requirements relating to members of the commission, except the  
22 requirement for prior residency in this state.

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

25           (g) The executive director may not, before the second  
26 anniversary of the date the director's service to the commission  
27 ends, acquire a direct or indirect interest in or be employed by a



1 person licensed in the conduct of gaming or the provision of casino  
2 services in this state.

3 Sec. 2004.060. OFFICES. The commission shall maintain its  
4 primary office in Travis County and may maintain other offices  
5 determined to be necessary by the commission.

6 Sec. 2004.061. MEETINGS. (a) The commission shall meet not  
7 less than six times in each calendar year.

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

10 Sec. 2004.062. AUTHORITY TO SUE OR BE SUED. (a) The  
11 commission may sue and be sued.

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

14 (c) A suit against the commission must be brought in Travis  
15 County.

16 Sec. 2004.063. AUDIT. The transactions of the commission  
17 are subject to audit by the state auditor under Chapter 321,  
18 Government Code.

19 [Sections 2004.064-2004.100 reserved for expansion]

20 SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

21 Sec. 2004.101. GENERAL POWERS. (a) All aspects of this  
22 chapter, including those relating to licensing, qualification,  
23 execution, and enforcement, shall be administered by the executive  
24 director and the commission for the protection of the public and in  
25 the public interest.

26 (b) The commission and the executive director have full  
27 power and authority to hold hearings, and in connection to the

1 hearings, to issue subpoenas, to compel the attendance of witnesses  
2 at any place in this state, to administer oaths, and to require  
3 testimony under oath. Any process or notice relating to a hearing  
4 may be served in the manner provided for service of process and  
5 notices in civil actions. The commission and the executive  
6 director may pay transportation and other expenses of witnesses as  
7 they consider reasonable.

8 (c) The executive director and the executive director's  
9 authorized employees may:

10 (1) inspect and examine a premises where gaming is  
11 conducted or equipment or supplies, including a slot machine or  
12 other gaming device, or associated equipment is manufactured,  
13 assembled, produced, programmed, sold, leased, marketed,  
14 distributed, repaired, or modified for use in gaming;

15 (2) for good cause, seize and remove from a premises  
16 and impound equipment or supplies for the purpose of examination  
17 and inspection; and

18 (3) demand access to, inspect, examine, photocopy, or  
19 audit papers, books, and records of applicants and licensees, on  
20 their premises or elsewhere as practicable, in the presence of the  
21 licensee or the licensee's agent, reporting the gross income  
22 produced by a gaming business, verification of the gross income,  
23 and other matters affecting the enforcement of this chapter.

24 (d) For the purpose of conducting audits after the cessation  
25 of gaming by a licensee, a former licensee shall furnish, on demand  
26 of the executive director or the executive director's authorized  
27 employees, books, papers, and records as necessary to conduct the

1 audits. The former licensee shall maintain all books, papers, and  
2 records necessary for audits for three years after the date of the  
3 surrender or revocation of the license. If the former licensee  
4 seeks judicial review of a deficiency determination or files a  
5 petition for a redetermination, the former licensee must maintain  
6 all books, papers, and records until a final order is entered on the  
7 determination.

8 Sec. 2004.102. RULEMAKING AUTHORITY. (a) The commission  
9 shall adopt rules as the commission considers necessary or  
10 desirable in the public interest in carrying out the policy and  
11 provisions of this chapter.

12 (b) The rules shall set out:

13 (1) the method and form of application that an  
14 applicant for a license must follow and complete before  
15 consideration of an application by the commission;

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

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

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

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

25 (6) the payment of fees or costs an applicant or  
26 licensee must pay;

27 (7) the procedures for the issuance of temporary

1 licenses and temporary qualification to hold equity interests and  
2 creditor interests in owner licensees;

3 (8) the manner and method of collection and payment of  
4 fees and the issuance of licenses;

5 (9) the definition of "unsuitable method of  
6 operation";

7 (10) the conditions under which the nonpayment of a  
8 gambling debt by a licensee shall be deemed grounds for  
9 disciplinary action;

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

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

15 (13) financial reporting and internal control  
16 requirements for licensees;

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

20 (15) requirements for the annual audit of the  
21 financial statements of a licensee;

22 (16) requirements for periodic financial reports from  
23 each licensee consistent with standards and intervals prescribed by  
24 the commission;

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

27 (18) the procedures for exempting or waiving

1 institutional investors from the licensing requirements for  
2 shareholders of publicly traded corporations.

3 Sec. 2004.103. AUTHORITY OF EXECUTIVE DIRECTOR. (a) With  
4 commission approval, the executive director may create executive  
5 positions as the director considers necessary to implement the  
6 provisions of this chapter.

7 (b) The executive director shall employ division directors  
8 in the areas of audit, investigation, and enforcement. The  
9 director of the audit division must be a certified public  
10 accountant, have five or more years of progressively responsible  
11 experience in general accounting, and have a comprehensive  
12 knowledge of the principles and practices of corporate finance or  
13 must possess qualifications of an expert in the field of corporate  
14 finance and auditing, general finance, gaming, and economics.  
15 Other directors must possess five or more years of training and  
16 experience in the fields of investigation, law enforcement, law, or  
17 gaming.

18 (c) The executive director may investigate, for the purpose  
19 of prosecution, a suspected criminal violation of this chapter.  
20 For the purpose of the administration and enforcement of this  
21 chapter, the executive director and employees designated by the  
22 executive director may be commissioned as peace officers.

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

25 (1) direct and supervise all administrative actions of  
26 the commission;

27 (2) bring legal action in the name and on behalf of the

1 commission;

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

4 (4) employ the services of persons considered  
5 necessary for consultation or investigation and set the salaries of  
6 or contract for the services of legal, professional, technical, and  
7 operational personnel and consultants, except that outside legal  
8 assistance may be retained only with the approval of the attorney  
9 general;

10 (5) acquire furnishings, equipment, supplies,  
11 stationery, books, and all other things the executive director  
12 considers necessary or desirable in carrying out the executive  
13 director's functions; and

14 (6) perform other duties the executive director may  
15 consider necessary to effect the purposes of this chapter.

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

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

22 (b) The office of hearing examiners shall:

23 (1) hold hearings under the authority of the  
24 commission on matters relating to the commission's administration  
25 of this chapter as the commission orders; and

26 (2) report after hearing in the manner prescribed by  
27 the commission.

1       (c) The commission shall refer any contested case arising  
2 under this chapter to the office of hearing examiners.

3       (d) The office of hearing examiners is independent of the  
4 executive director and is under the exclusive control of the  
5 commission.

6       (e) The office of hearing examiners is under the direction  
7 of a chief hearing examiner appointed by the commission.

8       (f) The commission may authorize the chief hearing examiner  
9 to delegate to one or more hearing examiners the authority to hold  
10 any hearing called by the chief hearing examiner.

11       (g) The chief hearing examiner and all assistant hearing  
12 examiners employed by the office of hearing examiners must be  
13 attorneys licensed to practice law in this state.

14       (h) The chief hearing examiner and all assistant hearing  
15 examiners may administer oaths, receive evidence, and issue  
16 subpoenas to compel the attendance of witnesses and the production  
17 of papers and documents in all matters delegated by the commission.

18       (i) The chief hearing examiner and all assistant hearing  
19 examiners are entitled to an annual salary and other compensation  
20 specified by the commission.

21       (j) The office of hearing examiners may contract for  
22 additional services it considers necessary to carry out its powers.

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

27       Sec. 2004.106. RECORDS. (a) The executive director shall

1 maintain a file of all applications for licenses under this  
2 chapter, together with a record of all action taken with respect to  
3 the applications.

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

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

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

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

25 (3) information provided to the commission or the  
26 executive director or a commission employee by a governmental  
27 agency or an informer or on the assurance that the information will



1 be held in confidence and treated as confidential; and

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

6 Sec. 2004.107. REPRESENTATION BY ATTORNEY GENERAL. (a)  
7 The attorney general shall represent the commission and the  
8 executive director in any proceeding to which the commission or the  
9 executive director is a party under this chapter or in any suit  
10 filed against the commission or executive director.

11 (b) The office of the attorney general on request shall  
12 advise the commission and the executive director in all other  
13 matters, including representing the commission when the commission  
14 acts in its official capacity.

15 [Sections 2004.108-2004.150 reserved for expansion]

16 SUBCHAPTER D. OWNER'S LICENSE

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

19 (b) It is unlawful for a person to own an equity interest in  
20 a casino that conducts gaming in this state for which an owner's  
21 license is not in effect.

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

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

27 (1) four owner's licenses may be awarded to a county

1 with a population of more than 2.5 million;

2 (2) not fewer than three owner's licenses may be  
3 awarded to a county with a population of not less than 1.8 million  
4 but not more than 2.5 million;

5 (3) not fewer than two but not more than three owner's  
6 licenses may be awarded to a county with a population of not less  
7 than 1 million but less than 1.8 million;

8 (4) not less than one owner's license may be awarded to  
9 all counties with a population of not less than 380,000 but less  
10 than 1 million;

11 (5) not fewer than six owner's licenses may be awarded  
12 to all counties with a population of not less than 180,000 but less  
13 than 380,000;

14 (6) not fewer than two owner's licenses may be awarded  
15 to all counties that are contiguous to an international boundary  
16 and have a population of 35,000 or more; and

17 (7) other owner's licenses may be awarded in the  
18 discretion of the commission.

19 (b) Notwithstanding Subsection (a):

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

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

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

1           (4) a license may not be issued in a county or  
2 municipality in which gaming is being conducted under the Indian  
3 Gaming Regulatory Act (25 U.S.C. Section 2701 et seq.) as of the  
4 effective date of this chapter; and

5           (5) not fewer than three of the owner's licenses  
6 allocated under Subsections (a)(5) and (6) may be awarded in  
7 counties that contain an island in the Gulf of Mexico on which there  
8 is an incorporated city with a population of at least 50,000, and in  
9 allocating all licenses under this subsection, the commission shall  
10 consider, in addition to the other suitability criteria described  
11 in this chapter, the ability of the proposed casino facility to  
12 attract interstate or international tourism and to develop jobs  
13 within political subdivisions in which there has been a history of  
14 unemployment in excess of six percent for a period of three  
15 consecutive years out of the preceding five years as determined by  
16 the commission.

17           (c) For purposes of determining the location of a casino, a  
18 casino is considered to be located in the municipality in which the  
19 main public entrance to the casino is located or, if the main public  
20 entrance is located outside a municipality, in the county in which  
21 the entrance is located.

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

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

27           (f) If gaming is not approved in a county, or in a

1 municipality within a county, to which an owner's license has been  
2 allocated through a local option election in accordance with  
3 Section 2004.651 within three years after the effective date of  
4 this chapter, or if within that period no applicant for an owner's  
5 license in a county that a license has been allocated to has been  
6 awarded an owner's license by the commission, the commission may  
7 award the licenses allocated to the county in Subsection (a) to any  
8 other county at the commission's discretion.

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

16 (b) The issuance of an owner's license under this section is  
17 subject to the applicant's satisfaction of all application,  
18 applicant eligibility, suitability, and other criteria applicable  
19 to applicants under Section 2004.152, except those relating to  
20 requisite economic impact under Section 2004.157. Except as  
21 otherwise provided in Subsection (a), all provisions of this  
22 chapter apply equally to licensees under this section and Section  
23 2004.152.

24 (c) Notwithstanding anything to the contrary in the Texas  
25 Racing Act (Article 179e, Vernon's Texas Civil Statutes), all  
26 matters relating to owner's licenses issued under this section,  
27 including licensing, manner of operation, and enforcement, are

1 regulated exclusively by the commission.

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

5 (e) Except as to simulcast common pool wagering conducted in  
6 a casino and except as otherwise authorized by the commission, the  
7 casino operations and financial records of an owner licensee under  
8 this section shall be kept separate from the racing operations and  
9 records of the licensee.

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

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

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

22 (1) proof that gaming has been approved through a  
23 local option election by the municipality where the applicant's  
24 proposed casino is to be located or by the county where the casino  
25 is to be located if the casino is proposed in an unincorporated  
26 area;

27 (2) evidence that the applicant possesses, or has the

1 right to acquire, sufficient real property on which the proposed  
2 casino will be located in order to allow the applicant's  
3 construction and operation of the casino project substantially as  
4 proposed;

5 (3) evidence that the applicant possesses, or  
6 reasonably expects to obtain, all state, county, and municipal  
7 permits and approvals necessary for the construction and operation  
8 of the proposed casino within the time periods prescribed in this  
9 chapter;

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

14 (5) evidence that the applicant is prepared to begin  
15 construction of its proposed casino promptly on receiving an  
16 owner's license and to proceed with the construction of the casino  
17 without unnecessary delay.

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

21 (d) An application for an owner's license must be  
22 accompanied by the nonrefundable application fee set out in Section  
23 2004.351.

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

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

3           (1) the company is incorporated or organized and in  
4 good standing in this state or organized under the laws of another  
5 state of the United States and qualified to do business in this  
6 state;

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

9           (3) either of the following applies:

10           (A) persons who beneficially own at least  
11 one-third of the equity interest of the company in accordance with  
12 the beneficial ownership criteria established by the commission are  
13 residents of this state under the residency requirements set out by  
14 the commission; or

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

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

21           (1) the date the governing body of the municipality or  
22 county gives written notice to the commission under Section  
23 2004.656 that gaming as authorized under this chapter has been  
24 legalized through a local option election; or

25           (2) the date the commission establishes procedures for  
26 application.

27       (d) An application may not be considered filed for purposes

1 of this chapter that does not include the information prescribed by  
2 Section 2004.154(b) or that is not accompanied by the prescribed  
3 application fee.

4 (e) This section does not supersede the residency and  
5 ownership requirements prescribed in the Texas Racing Act (Article  
6 179e, Vernon's Texas Civil Statutes) with respect to ownership and  
7 operation of pari-mutuel racetracks.

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

16 (b) The commission shall give due consideration to the  
17 protection of the public health, safety, morals, and general  
18 welfare of the people of this state and for the reputation of the  
19 state's gaming industry.

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

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

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

27 (2) each person holding, or proposed to receive, an



1 operator's license, occupational license, or manufacturer's  
2 license employed by or doing business with the applicant or holder;  
3 and

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

5 (e) An applicant for or holder of an owner's license may not  
6 receive or hold an owner's license if the person:

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

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

11 (3) has ever knowingly or intentionally submitted an  
12 application for a license under this chapter that contained false  
13 information;

14 (4) served as a principal manager for a person  
15 described by Subdivision (1), (2), or (3);

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

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

21 (7) holds a manufacturer's license or casino service  
22 license;

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

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

26 (f) The commission may adopt rules providing for a person's  
27 reciprocal determination of suitability to hold an owner's license

1 based on:

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

5 (2) the person's ownership of a greyhound or Class I  
6 horse racing facility under the Texas Racing Act (Article 179e,  
7 Vernon's Texas Civil Statutes).

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

13 (1) the relative prospective revenues to be collected  
14 by the state from the conduct of gaming at the casino and the  
15 overall economic impact of each competing applicant's proposed  
16 casino and associated facilities;

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

23 (3) the relative extent to which an applicant's  
24 proposed casino and any proposed associated hotel and nongaming  
25 businesses could be reasonably expected to encourage interstate  
26 tourism to this state;

27 (4) the relative extent to which the scope, design,

1 location, and construction of the applicant's casino and any  
2 associated hotel and nongaming businesses could be reasonably  
3 expected to contribute to developing a first-class gaming industry  
4 in this state; and

5 (5) the applicant's experience in conducting licensed  
6 gaming operations and the applicant's financial ability to promptly  
7 construct and adequately maintain the casino sought to be licensed,  
8 including the experience of partners of the applicant, of  
9 affiliated companies of the applicant or its partners, of key  
10 personnel of the applicant or its partners, and of operating  
11 companies under contract with the applicant.

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

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

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

24 (3) a casino to be licensed in a county with a  
25 population of 250,000 or more but less than 500,000 must have a  
26 minimum project commitment of \$60 million;

27 (4) a casino to be licensed in any county with a

1 population of 150,000 or more but less than 250,000 must have a  
2 minimum project commitment of \$40 million; and

3 (5) a casino to be licensed in any county with a  
4 population of less than 150,000 must have a minimum project  
5 commitment of \$30 million.

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

12 Sec. 2004.159. REVIEW OF APPLICATION. (a) The commission  
13 shall issue an order approving or denying an application for an  
14 owner's license not more than six months after the date of the  
15 filing of the application.

16 (b) The commission may adopt rules for awarding temporary or  
17 interim licensing the commission finds necessary to administer this  
18 chapter.

19 Sec. 2004.160. TRANSFERABILITY. An owner's license is not  
20 transferable and applies only to the specific site identified in  
21 the license.

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

25 (b) If the commission determines it has reasonable grounds  
26 to believe that an owner licensee may be unsuitable to continue to  
27 hold an owner's license, the commission shall conduct an

1 investigation and hearing under Section 2004.551 and may, based on  
2 its determination, suspend, limit, or revoke the license. On  
3 suspension or revocation of an owner's license, the licensee must  
4 immediately cease all gaming.

5 (c) If the holder of an owner's license fails to begin  
6 construction of a casino within one year after the receipt of the  
7 owner's license, or fails to begin gaming operations within three  
8 years after the receipt of the license, the license is forfeited,  
9 unless the commission, for good cause, has previously granted an  
10 appropriate extension of time.

11 (d) The right to receive and hold an owner's license is a  
12 revocable privilege, and not a right or property under the United  
13 States Constitution or the Texas Constitution. An applicant for or  
14 holder of an owner's license does not have a vested interest or  
15 right in a license granted under this chapter.

16 Sec. 2004.162. REGISTRATION OF INTEREST IN LICENSE. (a)  
17 Except as provided by Subsection (b), a person who directly or  
18 indirectly owns an equity or creditor interest in an applicant for  
19 or holder of an owner's license shall register and qualify with the  
20 commission under commission rules and shall provide information the  
21 commission finds necessary to determine the suitability and  
22 eligibility of the person to retain the interest.

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

25 (1) a key employee of the owner licensee that is  
26 required to apply for an occupational license under Section  
27 2004.202;

1           (2) an institutional investor;

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

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

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

9           Sec. 2004.163. TRANSFERABILITY OF INTEREST. (a) Except as  
10 provided by this subsection, an owner licensee may not issue an  
11 equity or creditor interest to a person without the commission's  
12 determination of the qualification of the proposed subscriber or  
13 purchaser to hold the interest. An owner licensee that is a  
14 publicly held company may issue equity or creditor interests of  
15 five percent or less of its equity or creditor interest to any  
16 person without the consent of the commission.

17           (b) A person beneficially owning more than five percent of  
18 the equity or creditor interest of an owner licensee may not  
19 transfer any portion of the interest in the licensee to any person  
20 without the commission's determination of the qualification of the  
21 proposed transferee to hold the interest.

22           (c) A subscriber or proposed transferee of an interest by an  
23 owner licensee shall provide the commission with information the  
24 commission considers necessary to determine the qualification of  
25 the person. The commission, not later than 60 days after the date  
26 of the application, shall determine the qualification of a  
27 subscriber or proposed transferee and approve or deny the issuance

1 or transfer.

2 Sec. 2004.164. DETERMINATION OF QUALIFICATION. (a) The  
3 commission shall determine the qualification of a person to acquire  
4 or continue to hold an equity or creditor interest in an applicant  
5 for or holder of an owner's license based on the qualification  
6 requirements the commission adopts for the protection of the public  
7 interest to ensure that the persons holding securities issued by  
8 licensees are of good character, honesty, integrity, and financial  
9 stability, and are otherwise qualified to hold the interest.

10 (b) The burden of proving qualification to acquire or hold  
11 an equity or creditor interest in a licensee is on the person  
12 acquiring or holding the interest.

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

17 (d) If the commission has reasonable grounds to believe that  
18 a person holding an equity or creditor interest in an applicant for  
19 or holder of an owner licensee may be unqualified to retain its  
20 interest, the commission shall conduct an investigation and hearing  
21 under Section 2004.551 and may, based on its determination, issue  
22 an unsuitability finding and divestiture order to the holder of the  
23 interest and the issuer of the interest. On receipt of a  
24 divestiture order, the person holding the interest shall tender its  
25 entire interest for purchase to the issuer or a third party on terms  
26 the commission approves.

27 (e) If the commission issues an unsuitability finding and

1 divestiture order to a holder of an equity interest or creditor  
2 interest, the person subject to the order may not:

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

6 (2) exercise, directly or indirectly, any voting power  
7 or other right with respect to the security to which the order  
8 relates.

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

11 [Sections 2004.165-2004.200 reserved for expansion]

12 SUBCHAPTER E. OPERATOR'S AND OCCUPATIONAL LICENSES

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

16 (b) A casino operator must hold a separate license for each  
17 casino that the casino operator operates unless the operator is  
18 also the owner of the premises and holds an owner's license for the  
19 premises.

20 Sec. 2004.202. OCCUPATIONAL LICENSE. (a) A person may not  
21 be employed as a gaming employee without holding an occupational  
22 license.

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

26 (c) An owner must at all times have not less than one  
27 occupational licensee designated as a key employee having



1 responsibility over all gaming activities who shall be available at  
2 the casino at all times when gaming is conducted on the licensee's  
3 premises.

4 (d) A gaming employee designated or determined to be a key  
5 employee by the commission shall be issued an occupational license  
6 designated as a key employee occupational license. In determining  
7 whether an employee is a key employee, the commission is not  
8 restricted by the title of the job performed by the employee but may  
9 consider the functions and responsibilities of the employee in  
10 making decisions.

11 (e) A person employed in the field of gaming as a gaming  
12 employee shall obtain an occupational license designated as a  
13 support occupational license. A person required to hold a support  
14 occupational license may not be a gaming employee of or assist the  
15 owner or operator licensee until the employee obtains a support  
16 occupational license. A person licensed as a key employee does not  
17 need to obtain a support occupational license.

18 Sec. 2004.203. APPLICATION. (a) Application for an  
19 operator's license or an occupational license shall be made in  
20 compliance with commission rules and must contain information the  
21 commission finds necessary to determine the suitability and  
22 eligibility of the applicant to function as a casino operator or to  
23 be employed or retained as a gaming employee.

24 (b) An application for an operator's license or an  
25 occupational license must be accompanied by the required  
26 application fee.

27 (c) The commission may issue a temporary operator's license

1 and a temporary occupational license.

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

5 Sec. 2004.205. DETERMINATION OF SUITABILITY. (a) The  
6 commission shall determine the suitability of an applicant for or  
7 holder of an operator's license or occupational license based on  
8 suitability criteria the commission adopts in order to ensure that  
9 a licensee:

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

11 (2) has sufficient business probity, competence, and  
12 training or experience in the gaming industry to perform the  
13 function contemplated; and

14 (3) is otherwise qualified to be licensed.

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

18 (c) In considering the suitability of a company applying for  
19 or holding an operator's license or occupational license to receive  
20 and continue to hold the license, the commission shall consider the  
21 suitability of each principal manager and each holder of an equity  
22 interest and creditor interest of the company to individually  
23 receive and hold an occupational license based on the suitability  
24 standards that apply to the applicants for the license generally.

25 (d) A person may not be found suitable to receive or hold an  
26 operator's license or occupational license if that person would be  
27 found unsuitable to hold an owner's license under Section

1 2004.156(e), except that an applicant for an operator's license or  
2 occupational license who has been convicted of a felony may be found  
3 suitable if the person is found to be adequately rehabilitated  
4 under the rehabilitation requirements adopted by the commission,  
5 and the applicant or licensee is otherwise suitable for licensing.

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

9 (b) If the commission determines that it has reasonable  
10 grounds to believe that a licensee may be unsuitable to continue to  
11 hold the license, giving due consideration to the protection of the  
12 health, safety, morals, and general welfare of this state and to the  
13 reputation of the state's gaming industry, the commission shall  
14 conduct an investigation and hearing provided in Section 2004.551  
15 and may, based on its determination, suspend, limit, or revoke any  
16 license.

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

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

22 (1) receive, directly or indirectly, any  
23 compensation, consideration, or payment of any kind relating to the  
24 conduct of gaming in any capacity requiring a license under Section  
25 2004.201 or 2004.202, other than the payment for services rendered  
26 before the suspension or revocation; or

27 (2) serve or function in a capacity that would require

1 a license under Section 2004.201 or 2004.202.

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

7 [Sections 2004.207-2004.250 reserved for expansion]

8 SUBCHAPTER F. MANUFACTURER'S AND OTHER SERVICE PROVIDERS'

9 LICENSES

10 Sec. 2004.251. MANUFACTURER'S LICENSE. (a) A person may  
11 not engage in any segment of the slot machine manufacturing  
12 industry in this state for which a manufacturer's license is  
13 required under this section without obtaining a manufacturer's  
14 license covering that segment of the industry.

15 (b) The commission shall adopt rules identifying segments  
16 of the manufacturing industry directly involved in the design,  
17 manufacture, assembly, production, programming, sale, lease,  
18 marketing, distribution, repair, or modification of slot machines  
19 or component parts of slot machines that the commission finds  
20 appropriate for licensing under this section.

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

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

26 (b) The commission shall adopt rules identifying segments  
27 of the casino service industry directly involved with providing

1 gaming-related services, equipment, and supplies that the  
2 commission finds appropriate for licensing.

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

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

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

9 (A) a payment based upon a percentage of the  
10 earnings, profits, or receipts from the casino; or

11 (B) a payment the commission finds to be grossly  
12 disproportionate to the value of the goods, property, or service  
13 provided.

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

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

19 Sec. 2004.253. APPLICATION. (a) Application for a  
20 manufacturer's license or casino service license shall be made in  
21 compliance with commission rules and shall contain information the  
22 commission finds necessary to determine the suitability and  
23 eligibility of the applicant.

24 (b) An application for a manufacturer's license or casino  
25 service license must be accompanied by the required application  
26 fee.

27 Sec. 2004.254. DETERMINATION OF SUITABILITY. (a) In

1 considering the suitability of a company applying for or holding a  
2 manufacturer's license or casino service license to receive and  
3 continue to hold the license, the commission shall consider the  
4 suitability of each principal manager and each holder of an equity  
5 interest and creditor interest in the company applicant to  
6 individually receive and hold a manufacturer's license or casino  
7 service license based on the suitability standards that apply to  
8 the company applicant. A person may not be found suitable to  
9 receive or hold a manufacturer's license or casino service license  
10 if that person would be found unsuitable to hold an owner's license  
11 under Section 2004.156(e).

12 (b) If the commission determines that it has reasonable  
13 grounds to believe that a licensee is unsuitable to hold a  
14 manufacturer's license or casino service license, the commission  
15 shall conduct an investigation and hearing under Section 2004.551  
16 and may, based on its determination, suspend, limit, or revoke a  
17 license.

18 (c) On suspension or revocation of a license, the licensee  
19 must cease the performance of manufacturing activity or casino  
20 service requiring a license under this chapter. After the  
21 revocation or suspension of the license, the affected licensee may  
22 not receive, directly or indirectly, compensation, consideration,  
23 or payment of any kind relating to manufacturing activity or  
24 provision of casino services in any capacity requiring a license  
25 under this chapter, other than the payment for goods or services  
26 provided before the suspension or revocation.

27 (d) An owner or casino operator who has entered into a lease

1 with a manufacturer licensee or casino services licensee whose  
2 license has been revoked or suspended may continue to make payments  
3 on the lease based upon its original terms and conditions without  
4 modification or may accelerate the lease and pay it off, at the sole  
5 option of the owner or operator.

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

9 [Sections 2004.255-2004.300 reserved for expansion]

10 SUBCHAPTER G. LICENSE RENEWAL

11 Sec. 2004.301. TERMS; RENEWAL; TEMPORARY LICENSE. (a)  
12 Before the issuance of a license, the commission may issue a  
13 temporary license for six months or less and may renew the temporary  
14 license as many times as the commission finds appropriate on the  
15 payment of the fee and execution of the bond, if required.

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

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

21 (2) the commission's determination that there is  
22 nothing in those background investigations of the applicant that  
23 would cause the applicant not to qualify for a license in this  
24 state.

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

27 (d) The fee for an owner's, operator's, occupational,

1 manufacturer's, or casino service license is in the amount  
2 established by Section 2004.352 and must be paid annually. A  
3 licensee may renew an unexpired license annually by meeting the  
4 licensing requirements of the commission and by paying the annual  
5 fee.

6 [Sections 2004.302-2004.350 reserved for expansion]

7 SUBCHAPTER H. APPLICATION AND LICENSE FEES

8 Sec. 2004.351. APPLICATION FEES. (a) An applicant for an  
9 owner's license during the first two years after the effective date  
10 of this chapter must pay a \$100,000 application fee for each  
11 application not later than the 30th day after the effective date of  
12 this chapter. The fees shall be deposited in the Texas casino  
13 gaming fund.

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

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

24 (d) During the first two years after the effective date of  
25 this chapter, an applicant may not apply for an owner's license for  
26 a site in a county unless the application fee for a license in that  
27 county was paid during the period set out in Subsection (a). If the



1 applicant seeks more than one license in a county during the first  
2 two years after the effective date of this chapter, the applicant or  
3 its affiliates or partners must file the number of application fees  
4 designating that county that is equal to the number of licenses in  
5 that county that the applicant is seeking.

6 (e) Notwithstanding Subsections (a), (b), (c), and (d), if  
7 no applicant pays an application fee for a site in a specific  
8 county, and a municipality within a county or the county passes a  
9 local option election approving casino gaming, or if applicants pay  
10 application fees for sites within a county and a municipality  
11 within the county or the county fails to approve a local option  
12 election approving casino gaming, the commission may accept  
13 applications for a site in the jurisdiction that passes the local  
14 option election from persons who have filed applications for other  
15 sites where a local option election failed and for a site in other  
16 counties or municipalities and apply the applicant's initial  
17 application fee to the new site.

18 (f) An applicant for an owner's license who has not  
19 submitted an application fee under Subsection (a) or (e) must send  
20 with its application an application fee of \$100,000.

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

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

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

27 (j) A person registering and applying to qualify to hold an

1 equity interest or creditor interest in a licensee must pay an  
2 application fee of \$100.

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

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

8 (m) Application fees shall be applied toward the cost of  
9 investigating applicants' suitability for licensing or  
10 qualification under this chapter. Any costs of investigation  
11 incurred in excess of the application fee shall be paid by the  
12 applicant.

13 Sec. 2004.352. LICENSE FEES. (a) A holder of an owner's  
14 license must pay an annual license fee of \$100,000.

15 (b) A holder of a manufacturer's license must pay an annual  
16 license fee of \$100,000.

17 (c) A casino operator holding an operator's license must pay  
18 an annual license fee of \$50,000.

19 (d) A holder of a casino service license must pay an annual  
20 license fee of \$100.

21 (e) A holder of an equity interest or creditor interest in  
22 any licensee that is required to qualify with the commission must  
23 pay an annual fee of \$100.

24 (f) A holder of an occupational license must pay an annual  
25 license fee of \$100.

26 [Sections 2004.353-2004.400 reserved for expansion]

1                   SUBCHAPTER I. CASINO GAMING FUND

2           Sec. 2004.401. TEXAS CASINO GAMING FUND. (a) The Texas  
3 casino gaming fund is a special fund in the state treasury.

4           (b) All application fees, investigation fees, and license  
5 fees collected by the commission or on the commission's behalf  
6 shall be deposited to the credit of the Texas casino gaming fund.

7           (c) The Texas casino gaming fund may be used only for the  
8 operation of the commission and the administration of this chapter.  
9 However, if the money in the fund exceeds the amount necessary for  
10 the operation of the commission and the administration of this  
11 chapter, the legislature may transfer any excess amount to the  
12 general revenue fund.

13           (d) All proceeds from the gaming tax imposed by Section  
14 2004.451 that are allocated to the state shall be deposited to the  
15 credit of the general revenue fund.

16           (e) The operation of the commission and the administration  
17 of this chapter shall be supported by fees generated under this  
18 chapter and by a portion of the gaming taxes imposed by Section  
19 2004.451. The operation of the commission may never be a charge  
20 against the general revenues of this state except to the extent  
21 those revenues are raised by taxes or fees imposed on gaming  
22 activities.

23           [Sections 2004.402-2004.450 reserved for expansion]

24                   SUBCHAPTER J. TAX ON GROSS GAMING REVENUE

25           Sec. 2004.451. GAMING TAX; ALLOCATION OF TAX. (a) There is  
26 imposed on each holder of an owner's license a gaming tax in an  
27 amount equal to 15 percent of the gross gaming revenue of the casino

1 operated under the license. The tax shall be computed and paid on a  
2 monthly basis as required by commission rule.

3 (b) Five-sixths of the tax imposed by this section, with the  
4 exception provided by Subsection (d), is allocated to the general  
5 revenue fund.

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

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

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

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

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

27 (2) refund any overpayment, with interest, to the

1 licensee.

2 (g) Interest must be computed, until paid, at the rate of  
3 one percent per month from the first day of the first month  
4 following either the due date of the additional gaming taxes or the  
5 date of overpayment.

6 Sec. 2004.452. DETERMINATION OF GROSS GAMING REVENUE. (a)  
7 In calculating gross gaming revenue, a prize, premium, drawing,  
8 benefit, or ticket that is redeemable for money, merchandise, or  
9 other promotional allowance, except money or tokens paid at face  
10 value directly to a patron as the result of a specific wager and the  
11 amount of cash paid to purchase an annuity to fund winnings, may not  
12 be deducted as a loss from winnings at any game except a slot  
13 machine.

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

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

26 Sec. 2004.453. REFUND OF OVERPAYMENT. (a) Gaming taxes  
27 that are erroneously collected may be refunded, on approval of the

1 commission, as other claims against the state are paid.

2 (b) Not later than the 90th day after the date of the mailing  
3 of the notice of the commission's action on a claim for refund filed  
4 under this chapter, the claimant may bring an action against the  
5 commission on the grounds stated in the claim in any court of  
6 competent jurisdiction for the recovery of any part of the amount of  
7 the claim that has been disallowed.

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

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

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

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

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

- 1           (1) the facts contained in the report, if any;  
2           (2) an audit conducted by the executive director;  
3           (3) an estimate of the amount of taxes due under this  
4 chapter;  
5           (4) any information in the commission's possession or  
6 that may come in the executive director's possession; or  
7           (5) any combination of the methods described by  
8 Subdivisions (1)-(4).

9           (b) In making a determination, the commission may offset  
10 overpayments and interest due against underpayments and interest or  
11 penalties due for the period of the audit.

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

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

24           (e) If overpayments and interest exceed underpayments,  
25 penalties, and interest, the excess payment shall be refunded to  
26 the owner licensee.

27           Sec. 2004.455. PETITION FOR REVIEW. (a) An owner licensee

1 against whom a determination is made under Section 2004.454 may  
2 petition the commission for a redetermination not later than the  
3 30th day after the date of the service of notice of the  
4 determination. If a petition for redetermination satisfying the  
5 requirements of Subsection (c) is not filed within the 30-day  
6 period, the determination becomes final.

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

11 (c) A petition for redetermination must:

12 (1) specify the contested portions of the  
13 determination of deficiency;

14 (2) specify the grounds for redetermination;

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

16 (4) be accompanied by payment in full of the  
17 uncontested portion of the determination, including any interest  
18 and penalties.

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

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

27 Sec. 2004.456. CERTAIN POLITICAL SUBDIVISION TAXES



1 PROHIBITED. A county, municipality, or other political subdivision  
2 of this state may not impose a license fee or tax on a person  
3 licensed to conduct gaming under this chapter. This section does  
4 not prohibit the imposition of generally applicable taxes or of  
5 fees for standard municipal services.

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

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

18 [Sections 2004.458-2004.500 reserved for expansion]

19 SUBCHAPTER K. REGULATION OF CASINO OPERATIONS

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

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

27 (c) The commission may not authorize a casino to conduct

1 wagering on the outcome of a sports event or sports activity other  
2 than greyhound or horse racing.

3 Sec. 2004.502. USE OF CHIPS OR TOKENS. All gaming must be  
4 conducted with chips or tokens approved by the commission or with  
5 the legal tender of the United States.

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

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

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

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

26 (e) The commission may require that a company furnish the  
27 commission with a copy of its federal income tax return not later

1 than the 30th day after the date the return is filed with the  
2 federal government.

3 Sec. 2004.504. EXCLUSION OF PERSONS. (a) The commission by  
4 rule shall provide for the establishment of a list of persons who  
5 are to be excluded or ejected from a casino. The list may include a  
6 person whose presence in the establishment is determined by the  
7 commission to pose a threat to the interests of this state, to  
8 licensed gaming, or to both interests.

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

11 (1) prior conviction of a crime that is a felony in  
12 this state or under the laws of the United States or a crime  
13 involving moral turpitude or a violation of the gaming laws of a  
14 state; or

15 (2) violation of or conspiracy to violate the  
16 provisions of this chapter relating to:

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

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

20 (C) notorious or unsavory reputation that would  
21 adversely affect public confidence and trust that the gaming  
22 industry is free from criminal or corruptive elements; or

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

26 Sec. 2004.505. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) An  
27 owner licensee shall adopt an internal control system that provides

1 for:

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

4 (2) the provision of reliable records, accounts, and  
5 reports of transactions, operations, and events, including reports  
6 to the executive director and the commission.

7 (b) The internal control system must be designed to  
8 reasonably ensure that:

9 (1) assets are safeguarded;

10 (2) financial records are accurate and reliable;

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

13 (4) transactions are recorded adequately to permit  
14 proper reporting of gaming revenue and of fees and taxes and to  
15 maintain accountability for assets;

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

18 (6) recorded accountability for assets is compared  
19 with actual assets at reasonable intervals and appropriate action  
20 is taken with respect to any discrepancies; and

21 (7) functions, duties, and responsibilities are  
22 appropriately segregated and performed in accordance with sound  
23 practices by competent, qualified personnel.

24 (c) An owner licensee and an applicant for an owner's  
25 license shall describe, in a manner approved or required by the  
26 executive director, the licensee's or applicant's administrative  
27 and accounting procedures in detail in a written system of internal

1 control. An owner licensee and applicant for an owner's license  
2 shall submit a copy of the licensee's or applicant's written system  
3 to the executive director. A written system must include:

4 (1) an organizational chart depicting appropriate  
5 segregation of functions and responsibilities;

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

8 (3) a detailed, narrative description of the  
9 administrative and accounting procedures designed to satisfy the  
10 requirements of Section 2004.503(a);

11 (4) a written statement signed by the licensee's chief  
12 financial officer and either the licensee's chief executive officer  
13 or an owner licensee attesting that the system satisfies the  
14 requirements of this section;

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

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

21 (d) The commission shall adopt minimum standards for  
22 internal control procedures.

23 Sec. 2004.506. AGE REQUIREMENTS. A person under the age of  
24 21 years may not:

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

1           (2) be employed as a gaming employee.

2           Sec. 2004.507. ACCEPTANCE OF NEGOTIABLE INSTRUMENTS. (a)

3 A negotiable instrument evidencing a gaming transaction may be  
4 enforced by legal process.

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

9           (c) A licensee:

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

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

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

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

1 instrument represents.

2 Sec. 2004.508. GAMING DEBTS. (a) Except as otherwise  
3 provided by this chapter, gaming debts not evidenced by a  
4 negotiable instrument are void and unenforceable and do not give  
5 rise to any administrative or civil cause of action.

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

9 (c) The executive director shall send a copy of the  
10 director's ruling by first class mail to the attorneys of record and  
11 shall keep an appropriate copy of the mailing. If a party is not  
12 represented by an attorney of record, the executive director shall  
13 send a copy of the ruling by first class mail to the party and shall  
14 keep an appropriate record of the mailing.

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

18 (e) A party aggrieved by the executive director's ruling is  
19 entitled to have the claim resolved by the commission in a contested  
20 case if the party files a written complaint with the commission  
21 challenging the executive director's decision not later than the  
22 20th day after the date on which the party or the party's attorney  
23 of record is notified by mail.

24 Sec. 2004.509. QUESTIONING AND DETENTION OF PERSONS. (a)  
25 An owner licensee or the licensee's officer, employee, or agent may  
26 question any person on the licensee's premises suspected of  
27 violating this chapter. The owner licensee or the licensee's

1 officer, employee, or agent is not criminally or civilly liable:

2 (1) as a result of the questioning; or

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

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

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

20 AN OWNER LICENSEE OR AN OWNER LICENSEE'S OFFICER,  
21 EMPLOYEE, OR AGENT WHO HAS A REASONABLE CAUSE TO  
22 BELIEVE THAT A PERSON HAS VIOLATED A PROVISION OF THE  
23 TEXAS ECONOMIC DEVELOPMENT AND GAMING CONTROL ACT MAY  
24 QUESTION OR DETAIN THAT PERSON IN THE ESTABLISHMENT.

25 [Sections 2004.510-2004.550 reserved for expansion]

26 SUBCHAPTER L. ENFORCEMENT

27 Sec. 2004.551. ENFORCEMENT. (a) The executive director



1 shall conduct an appropriate investigation to:

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

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

7 (3) aid in adopting rules;

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

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

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

1 language of the statute or rule. On the filing of the complaint,  
2 the executive director shall serve a copy of the complaint on the  
3 respondent either personally or by registered or certified mail at  
4 the respondent's address on file with the executive director.

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

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

11 (e) The hearing examiner shall conduct proceedings under  
12 Chapter 2001, Government Code. After the proceedings, the hearing  
13 examiner may recommend that the commission take any appropriate  
14 action, including revocation, suspension, limitation or  
15 conditioning of a license, or imposition of a fine not to exceed  
16 \$5,000 for each violation.

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

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

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

1       (i) A limitation, condition, revocation, suspension, or  
2 fine imposed is effective until reversed following judicial review,  
3 except that the commission may stay its order pending a rehearing or  
4 judicial review on terms and conditions as it considers proper.

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

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

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

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

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

26           (2) the commission and the executive director shall  
27 maintain all privileged information, documents, and communications

1 in a secure place accessible only to members of the commission and  
2 the executive director; and

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

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

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

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

26 (1) a licensee has wilfully failed to report, pay, or  
27 truthfully account for a fee imposed under this chapter or wilfully

1 attempted in any manner to evade or defeat a fee or payment;

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

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

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

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

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

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

1 judicial review of the decision and order of the commission under  
2 Chapter 2001, Government Code. Judicial review is under the  
3 substantial evidence rule.

4 [Sections 2004.555-2004.600 reserved for expansion]

5 SUBCHAPTER M. PENALTIES AND OFFENSES

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

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

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

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

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

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

27 (2) places, increases, or decreases a bet or

1 determines the course of play after acquiring knowledge, not  
2 available to all players, of the outcome of the game or an event  
3 that affects the outcome of the game or that is the subject of the  
4 bet or aids anyone in acquiring such knowledge for the purpose of  
5 placing, increasing, or decreasing a bet or determining the course  
6 of play contingent on that event or outcome;

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

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

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

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

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

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

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

7           (1) projecting the outcome of the game;

8           (2) keeping track of the cards played;

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

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

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

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

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

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

27           (2) uses any device or means to violate the provisions



1 of this chapter.

2 (c) A person, other than an authorized employee of an owner  
3 licensee acting in furtherance of the person's employment within an  
4 establishment, commits an offense if the person knowingly has on  
5 the person's body or in the person's possession on or off the  
6 premises of a casino a device intended to be used to violate the  
7 provisions of this chapter.

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

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

27 (1) lead or lead alloys;

1           (2) molds, forms, or similar equipment capable of  
2 producing a likeness of a gaming token or United States coin;

3           (3) melting pots or other receptacles;

4           (4) torches; and

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

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

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

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

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

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

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

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

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

27           (1) affects the result of a wager by determining win or

1 loss; or

2 (2) alters the normal criteria of random selection  
3 that affect the operation of a game or determine the outcome of a  
4 game.

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

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

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

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

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

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

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

26 Sec. 2004.610. GAMING BY MINORS. (a) A person commits an  
27 offense if the person knowingly permits an individual that the

1 person knows is younger than 21 years of age to participate in  
2 gaming at a casino.

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

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

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

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

12 [Sections 2004.612-2004.650 reserved for expansion]

13 SUBCHAPTER N. LOCAL OPTION ELECTIONS

14 Sec. 2004.651. ORDERING LOCAL OPTION ELECTION. The  
15 governing body of a county or municipality may at any time order an  
16 election to legalize casino gaming under this chapter in that  
17 county or municipality. However, an election may not be held before  
18 the date of the election at which the constitutional amendment  
19 proposed by the 79th Legislature, Regular Session, 2005, is  
20 submitted to the voters. The local option election authorized by  
21 this section may be held on the same date as the election at which  
22 the constitutional amendment proposed by the 79th Legislature,  
23 Regular Session, 2005, is presented to the voters. The governing  
24 body shall order and hold an election to legalize gaming under this  
25 chapter in the county or municipality if the governing body is  
26 presented with a petition that meets the requirements of Section  
27 2004.652 and is certified as valid under Section 2004.653.

1       Sec. 2004.652. PETITION REQUIREMENTS. (a) A petition for a  
2 legalization election must include a statement substantially as  
3 follows before the space reserved for signatures on each page:  
4 "This petition is to require that an election be held in (name of  
5 county or municipality) to legalize casino gaming in (name of  
6 county or municipality)."

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

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

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

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

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

26       Sec. 2004.653. VERIFICATION. (a) Not later than the fifth  
27 day after the date a petition for an election under this chapter is

1 received in the office of the governing body, the governing body  
2 shall submit the petition for verification to the municipal  
3 secretary or county clerk, as applicable.

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

12 Sec. 2004.654. ORDERING ELECTION. If the municipal  
13 secretary or county clerk, as applicable, certifies that a petition  
14 is valid, not later than the 30th day after the date of  
15 certification, the governing body shall order that an election be  
16 held in the municipality or county on the next uniform election date  
17 under Section 41.001, Election Code, that allows sufficient time to  
18 comply with applicable provisions of law, including Section 3.005,  
19 Election Code. The governing body shall state in the order the  
20 issue to be voted on. The municipal secretary or county clerk shall  
21 notify the commission by certified mail, return receipt requested,  
22 that an election has been ordered.

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

27 Sec. 2004.656. ELECTION RESULTS. (a) If the majority of

1 the votes cast in a legalization election favor the legalization of  
2 casino gaming, casino gaming authorized under this chapter is  
3 permitted within the county or municipality holding the election  
4 effective on the 10th day after the date of the election.

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

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

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

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

1 municipality located within the county, and the failure of a  
2 municipal legalization election has no effect on subsequent  
3 countywide legalization elections.

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

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

8 (1) was permitted under Chapter 2001, Occupations  
9 Code;

10 (2) was permitted under Chapter 2002, Occupations  
11 Code;

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

15 (4) was permitted under the Texas Racing Act (Article  
16 179e, Vernon's Texas Civil Statutes); [~~or~~]

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

21 (6) was permitted under the Texas Economic Development  
22 and Gaming Control Act (Chapter 2004, Occupations Code).

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

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



1 purpose of shipping it:

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

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

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

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

10 (1) was authorized under:

11 (A) Chapter 2001, Occupations Code;

12 (B) Chapter 2002, Occupations Code; ~~[or]~~

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

15 (D) the Texas Economic Development and Gaming  
16 Control Act (Chapter 2004, Occupations Code);

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

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

21 (A) Chapter 466, Government Code;

22 (B) the lottery division of the Texas Lottery  
23 Commission;

24 (C) the Texas Lottery Commission; or

25 (D) the director of the lottery division of the  
26 Texas Lottery Commission.

27 SECTION 5. Subchapter H, Chapter 151, Tax Code, is amended

1 by adding Section 151.356 to read as follows:

2 Sec. 151.356. ELECTRONIC AND ELECTROMECHANICAL GAMING  
3 DEVICES. An electronic or electromechanical gaming device  
4 permitted under the Texas Economic Development and Gaming Control  
5 Act (Chapter 2004, Occupations Code) is exempt from the tax imposed  
6 by this chapter and from the other provisions of this chapter.

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

9 Sec. 11.05. UNLAWFUL WAGERING. A person shall not wager on  
10 the result of a greyhound race or horse race in this state except as  
11 permitted by this Act or by the Texas Economic Development and  
12 Gaming Control Act (Chapter 2004, Occupations Code).

13 SECTION 7. All funds in the Texas casino gaming fund are  
14 appropriated to the Texas Gaming Commission for the operation of  
15 the commission and the administration of the Texas Economic  
16 Development and Gaming Control Act (Chapter 2004, Occupations  
17 Code), as added by Section 1 of this Act, for the biennium ending  
18 August 31, 2007.

19 SECTION 8. The governor shall make the initial appointments  
20 to the Texas Gaming Commission not later than the 30th day after the  
21 effective date of this Act. In making the initial appointments to  
22 the Texas Gaming Commission, the governor shall designate two  
23 members for terms expiring in 2007, two members for terms expiring  
24 in 2009, and two members for terms expiring in 2011.

25 SECTION 9. Subchapter N, Texas Economic Development and  
26 Gaming Control Act (Chapter 2004, Occupations Code), as added by  
27 Section 1 of this Act, takes effect September 1, 2005. The

1 remainder of this Act takes effect on the date on which the  
2 constitutional amendment proposed by the 79th Legislature, Regular  
3 Session, 2005, to authorize casino gaming takes effect. If that  
4 amendment is not approved by the voters, then this entire Act has no  
5 effect.