

BILL ANALYSIS

C.S.H.B. 3186
By: Menendez
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The game of poker is being played regularly in the cities of Texas. The law enforcement community has had difficulty regulating and policing the games to determine how they fit under the current structure of the law. Additionally, the State of Texas is not benefiting financially from any games currently being played in the state.

C.S.H.B. 3186 would permit poker to be legally played in Texas under the supervision of the Texas Lottery Commission with the state receiving a portion of the money from each game in a dedicated fund; the money goes to the Texas Department of Housing and Community Affairs, with 50 percent to be distributed to municipalities, counties and charities and 50 percent to be made a part of the housing trust fund. Among other provisions, the substitute sets out establishments where games may be played; conditions of play; and licensing of establishments, dealers and others providing services.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Lottery Commission and the Texas Comptroller of Public Accounts in SECTION 1 and to the Texas Lottery Commission in Section 7 of this bill.

ANALYSIS

C.S.H.B. 3186 amends Subtitle A, Title 13, Occupations Code, to add Chapter 2004 (chapter) to authorize and regulate poker gaming in Texas. Provides short title. States public policy, including findings and declaration of public policy.

C.S.H.B. 3186 defines “alcoholic beverage,” “badge,” “bet,” “bonus program,” “cage manager,” “charitable operator,” “charitable poker tournament,” “collection fee,” “commercial operator,” “commission,” “communal pot,” “company,” “creditor interest,” “dealer,” “director” “electronic poker table,” “equity interest,” “executive director,” “fidelity bond,” “gross receipts,” “licensed nonprofit organization,” “licensed operator,” “manufacturer,” “net proceeds,” “nonprofit organization” “pari-mutuel license holder,” “player,” “poker,” “poker game,” “poker card deck,” “poker gaming,” “poker gaming equipment,” “premises,” “principal manager,” “promotion bonus fee,” and “wager.”

C.S.H.B. 3186 provides that the Texas Lottery Commission (commission) shall administer this chapter; has broad authority and shall exercise strict control and close supervision over all poker gaming conducted in this state to ensure that poker gaming is fairly conducted; and shall execute its authority through a poker gaming division (division) established by the commission to administer this chapter.

C.S.H.B. 3186 provides that the commission employs a director of poker gaming operations (director), who shall administer the division under the commission's direction. The commission may employ officers or investigators it considers necessary to administer this chapter. The commission shall adopt necessary rules to enforce and administer this chapter. The commission by rule shall provide procedures for the approval of poker gaming equipment for use in poker gaming in this state and may approve an electronic poker table only if the table meets certain statutory conditions stated in this chapter; the holder of a license issued under this chapter may not use, sell, or distribute unapproved poker gaming equipment.

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C.S.H.B. 3186 requires the commission to provide to any person on request a printed copy of this chapter and rules applicable to this chapter's enforcement; the commission may charge a reasonable fee for these copies.

C.S.H.B. 3186 authorizes a person to request from the commission an advisory opinion regarding compliance with this chapter and commission rules. The commission shall respond to a request not later than the 60th day after the date a request is received, unless the commission determines that the request does not contain sufficient facts to provide an answer on which the requestor may rely, in which case the commission shall request additional information from the requestor not later than the 10th business day after the date the request is received. If the commission requests additional information, the commission shall respond to the request not later than the 60th day after the date additional information is received pursuant to the request for additional information. A requestor may act in reliance on the advisory opinion in the conduct of any activity under any license issued under this chapter if the conduct is substantially consistent with the opinion and the facts stated in the request. An advisory opinion issued under this section is not a rule under Subchapter B, Chapter 2001, Government Code, and the rulemaking requirements of that subchapter do not apply to a request for an advisory opinion or any advisory opinion issued by the commission. The substitute does not preclude the commission from requesting an attorney general's opinion under Section 402.042, Government Code. In the event the commission requests an attorney general's opinion on a matter that is the subject of an advisory opinion request under this section, the deadlines established are tolled until the 30th day following the date of issuance of the attorney general's opinion.

C.S.H.B. 3186 provides that a person may not conduct poker gaming in the state unless the person holds a charitable operator's license or a commercial operator's license issued by the commission. Poker gaming conducted by a commercial operator, including a charitable poker tournament conducted by the operator to benefit a licensed nonprofit organization, may be conducted only on premises operating in accordance with the operator's license. Poker gaming conducted by a charitable operator may be conducted only at a location specified in a permit authorizing the conduct of a charitable poker tournament. The substitute does not prohibit a person from playing a poker game authorized by other state law. A person may not own an equity interest in a location in this state on which poker gaming is conducted by a commercial operator and for which a commercial operator's license is not in effect. A separate commercial operator's license must be obtained for each location at which poker gaming is conducted by a commercial operator. If the commercial operator is an Indian tribe that holds a license issued under Section 2004.103(a)(1)(B) of this chapter, the location at which poker gaming is conducted under that license must be on the tribe's reservation in this state. Except as otherwise provided by this chapter or commission rule, a commercial operator may not operate more than four poker gaming tables at a single location licensed by the commission. The commission by rule shall determine the number of poker tables a commercial operator that is a pari-mutuel license holder may operate. A separate permit must be obtained for each charitable poker tournament conducted by a licensed operator.

C.S.H.B. 3186 provides that in accordance with commission rules, an applicant for a commercial operator's license shall file with the commission an application that contains the information identified by certain statutory provisions in this chapter and any additional information the commission requires to determine the suitability and eligibility of the applicant; sets forth criteria that must be included on the application and certain criteria that must be attached to the application.

C.S.H.B. 3186 provides that the commission shall issue a commercial operator's license to an applicant that meets certain statutory criteria specified in this chapter. The commission shall revoke certain commercial operator's license if that operator's alcoholic beverage license or permit or pari-mutuel license, as applicable, expires or is revoked. The Texas Alcoholic Beverage Commission shall notify the commission of any expiration or revocation of an alcoholic beverage license or permit held by a licensed operator. The Texas Racing Commission shall notify the commission of any expiration or revocation of a pari-mutuel license held by a licensed operator. If video surveillance is required, the commission may not issue a commercial operator's license to an applicant unless the applicant provides the required video surveillance equipment. The commission may adopt rules providing for a person's continued suitability to hold a commercial operator's license. The opportunity to hold a commercial operator's license is

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a revocable privilege and not a right or property under the United States Constitution or the Texas Constitution. An applicant for or holder of a commercial operator's license does not have a vested interest or right in a license granted under this chapter.

C.S.H.B. 3186 provides that in accordance with commission rules, an applicant for a charitable operator's license shall file with the commission an application that contains the information identified in Subsection (b) and any additional information the commission requires to determine the suitability and eligibility of the applicant; sets forth criteria that must be included in the application. The commission shall determine the suitability of an applicant for or holder of a charitable operator's license based on suitability criteria prescribed by the commission. The commission shall adopt the rules and standards necessary to ensure that an applicant for a charitable operator's license or a charitable operator uses the revenue from a charitable poker tournament for bona fide charitable purposes. The burden of proving suitability to receive or hold a charitable operator's license is on the applicant or license holder. The commission shall issue a charitable operator's license to an eligible applicant if the commission determines that the applicant is suitable under the commission's criteria. The commission may adopt rules providing for a person's continued suitability to hold a charitable operator's license and providing for the imposition of sanctions and penalties against a person who does not comply with this chapter or rules adopted under this chapter. The opportunity to hold a charitable operator's license is a revocable privilege and not a right or property under the United States Constitution or the Texas Constitution. An applicant for or holder of a charitable operator's license does not have a vested interest or right in a license granted under this chapter.

C.S.H.B. 3186 provides that a commercial operator's license applies only to the specific premises location identified in the license and is not transferable to another person or location.

C.S.H.B. 3186 provides that, with certain statutory exceptions specified in this chapter, a person who directly or indirectly owns an equity interest or creditor interest in an applicant for or holder of a commercial operator's license shall register and qualify with the commission under commission rules and shall provide information the commission finds necessary to determine the suitability and eligibility of the person to retain the interest; sets forth persons who are not required to register or qualify under this section. The commission shall adopt rules to implement this section, including rules establishing procedures for registration application, qualification, and renewal. A registration filed under this section must be accompanied by the required application fee.

C.S.H.B. 3186 provides that a licensed operator may not conduct a charitable poker tournament to benefit a nonprofit organization unless the organization holds a license issued for that purpose. A licensed operator shall ensure that each nonprofit organization receiving any portion of the net proceeds of a charitable poker tournament conducted by the operator holds a license issued by the commission for that purpose. An applicant for a nonprofit organization license must submit an application to the commission under certain statutory terms and conditions specified in this chapter containing certain information required by this chapter with certain statutory attachments specified in this chapter. Not later than the 30th day after the date the commission grants an application for a nonprofit organization license, the commission shall issue the license to the applicant. The commission shall determine the suitability of an applicant for or holder of a nonprofit organization license based on suitability criteria prescribed by the commission to ensure that the applicant is a bona fide nonprofit organization and that revenue from a charitable poker tournament will be used for bona fide charitable purposes. The burden of proving suitability to receive or hold a license is on the applicant or license holder. The commission shall issue a nonprofit organization license to an eligible applicant if the commission determines that the applicant is suitable under the commission's criteria. The commission may adopt rules providing for a nonprofit organization's continued suitability to hold a license under this chapter and providing for the imposition of sanctions and penalties against an organization that does not comply with this chapter or rules adopted under this chapter. The opportunity to hold a nonprofit organization license is a revocable privilege and not a right or property under the United States Constitution or the Texas Constitution. An applicant for or holder of a nonprofit organization license does not have a vested interest or right in a license granted under this chapter.

C.S.H.B. 3186 provides that a licensed operator may conduct a charitable poker tournament only for which the operator holds a permit issued under this section. A licensed operator may apply

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for a permit to conduct a charitable poker tournament by filing an application under certain statutory terms and conditions specified in this chapter containing certain information specified by this chapter. Not later than the 10th day after the date the commission grants an application for a permit, the commission shall deliver the permit to the licensed operator. The permit must state the location, date, hours, and number of tables authorized for the charitable poker tournament. The operator must prominently display the permit at the charitable poker tournament. The permit is valid only for the hours, date, and location specified by the permit. A licensed operator may only operate the number of poker gaming tables specified in the permit at the charitable poker tournament.

C.S.H.B. 3186 provides that a licensed operator may conduct a charitable poker tournament for the benefit of a licensed nonprofit organization. A licensed operator shall pay to a licensed nonprofit organization all net proceeds from a charitable poker tournament not later than the 30th day after the date of the tournament. The expenses of conducting the tournament deducted by a licensed operator may not exceed 30 percent of gross receipts. The expenses must be reasonable or necessary to conduct the poker gaming and may include certain expenses specified in this chapter. A licensed nonprofit organization must use the proceeds from the charitable poker tournament for its charitable purposes.

C.S.H.B. 3186 provides that the commission may deny an application for or suspend, limit, or revoke a nonprofit organization's license for any reasonable cause. If the commission determines that it has reasonable grounds to believe that a licensed nonprofit organization might be unsuitable to continue to hold the license, for protection of the public health, safety, morals, and general welfare of the people of this state and of the reputation of this state's poker gaming industry, the commission shall conduct an investigation and hearing in accordance with provisions of this chapter and, based on the commission's determination, may deny, suspend, limit, or revoke the license. A nonprofit organization that has had a license suspended or revoked may not receive, directly or indirectly, any proceeds, compensation, consideration, or payment of any kind relating to the conduct of a charitable poker tournament, other than a tournament that took place before the suspension or revocation.

C.S.H.B. 3186 provides that a person may not act as a dealer unless the person holds a dealer's license. A licensed operator shall ensure that each dealer employed by the operator holds a dealer's license issued by the commission. A dealer's license application must include certain information specified by this chapter and comply with certain statutory terms and conditions. The commission shall conduct a criminal background check on each applicant for a dealer's license. Not later than the 60th day after the date the commission grants an application for a dealer's license, the commission shall issue a dealer's badge to the applicant. A licensed dealer must prominently display on the dealer's person the badge issued by the commission at all times when the dealer is on the premises of a licensed operator as an employee of the licensed operator. A person is eligible to apply for and hold a dealer's license without regard to the applicant's residency in this state.

C.S.H.B. 3186 provides that the commission shall determine the suitability of an applicant for or holder of a dealer's license based on suitability criteria prescribed by the commission to ensure that the applicant or dealer meets certain statutory requirements specified in this chapter. The burden of proving suitability to receive or hold a dealer's license is on the applicant or license holder. The commission may deny an application for or suspend, limit, or revoke a dealer's license for any reasonable cause. If the commission determines that it has reasonable grounds to believe that a licensed dealer might be unsuitable to continue to hold the license, for protection of the public health, safety, morals, and general welfare of the people of this state and of the reputation of this state's poker gaming industry, the commission shall conduct an investigation and hearing as provided by this chapter and, based on the commission's determination, may deny, suspend, limit, or revoke a dealer's license. On the suspension or revocation of a dealer's license, the license holder may not provide services in any capacity requiring certain licenses under this Section 2004.151 of this chapter. A holder of a dealer's license that has been suspended or revoked may not engage in certain statutorily-proscribed activities. The receipt and holding of a dealer's license is a privilege and is not a right or property under the United States Constitution or the Texas Constitution. An applicant for or holder of a dealer's license does not have a vested interest or right in a license granted under this chapter.

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C.S.H.B. 3186 provides that a licensed dealer shall complete a training program in accordance with commission rule. A training program approved by the commission must include certain statutorily-prescribed training. The commission by rule shall establish certain statutory requirements specified in this chapter for a training program.

C.S.H.B. 3186 provides that the commission by rule may establish other employee's licenses the commission determines are necessary to protect the public health, safety, morals, and general welfare of the people of this state, including licenses for principal managers, cage managers, owners, and card room service personnel. A person may not engage in any conduct for which the commission requires a person to hold certain licenses under this section unless the person holds the applicable license. The commission by rule shall prescribe procedures governing licenses issued as provided by this chapter as the commission determines appropriate.

C.S.H.B. 3186 provides that a person may not engage in any activity related to the poker gaming equipment manufacturing industry in this state for which a manufacturer's license is required unless the person holds a manufacturer's license for that activity. The commission shall adopt rules identifying activities related to the design, manufacture, assembly, production, sale, lease, marketing, distribution, or repair of poker gaming equipment in this state for use in poker gaming authorized under this chapter that the commission determines appropriate for licensing as provided by this chapter. A manufacturer's license is personal to the license holder and allows the holder to conduct business related to the licensed activity with any premises licensed to operate electronic poker tables and poker gaming in this state. A person may not distribute or offer to distribute poker gaming equipment for use in poker gaming authorized under this chapter in this state, including electronic poker tables, unless the person holds a distributor's license under this subchapter. A person must obtain a distributor's license to distribute poker gaming equipment in this state to a licensed operator for use on premises at which poker gaming is conducted for profit. A distributor's license is personal to the license holder and allows the holder to conduct business with any premises licensed to operate poker gaming in this state. The license is not transferable.

C.S.H.B. 3186 provides that in accordance with commission rules, an applicant for a manufacturer's license or distributor's license shall file with the commission under certain statutory terms and conditions specified in the substitute an application that contains information the commission requires to determine the suitability and eligibility of the applicant. In considering the suitability of a company applying for or holding a manufacturer's license or distributor's license, the commission shall consider the suitability of each principal manager and each holder of an equity interest or creditor interest in the company applicant to individually receive and hold a manufacturer's license or distributor's license based on the suitability standards that apply to the company applicant. A person may not hold a manufacturer's license or distributor's license if that person would be found unsuitable to hold an operator's license. If the commission determines that it has reasonable grounds to believe an applicant or license holder is unsuitable to hold a manufacturer's license or distributor's license, the commission shall conduct an investigation and hearing as provided by this chapter and, based on the commission's determination, may deny, suspend, limit, or revoke the license. On suspension or revocation of a license, the license holder may not perform in certain statutorily-prescribed activity; authorizes a licensed operator who has entered into a lease with a manufacturer or distributor whose license has been suspended or revoked to continue to make payments or may accelerate the lease and pay it off, at the sole option of the operator. The burden of proving suitability to receive or hold a manufacturer's or distributor's license is on the applicant or license holder.

C.S.H.B. 3186 provides that before issuing a license under this chapter, the commission may issue a temporary license for a period not to exceed six months and may renew the temporary license as many times as the commission determines appropriate on the payment of the fee and execution of the bond, if required. The commission may issue a temporary license only to a person the commission believes will be qualified to hold the license based on certain criteria specified in the substitute. A license issued under this chapter expires on the first anniversary of the date of issuance. A license holder may annually renew a license by meeting the commission's licensing requirements and paying the annual license fee.

C.S.H.B. 3186 provides that a commercial operator must at all times hold an alcoholic beverage license or permit issued by the Texas Alcoholic Beverage Commission authorizing the operator

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to serve alcoholic beverages on the premises licensed by the commission or a pari-mutuel license issued by the Texas Racing Commission authorizing the applicant to conduct wagering on a greyhound race or a horse race. The operator shall submit with each license renewal fee a renewal application on a form developed by the commission. A commercial operator shall immediately notify the commission on cancellation or revocation by the Texas Alcoholic Beverage Commission of any license or permit authorizing the operator to serve alcoholic beverages on the premises licensed by the commission. The Texas Alcoholic Beverage Commission shall notify the commission when it cancels or revokes a license or permit authorizing an operator to serve alcoholic beverages. A commercial operator shall immediately notify the commission on cancellation or revocation by the Texas Racing Commission of any pari-mutuel license held by the commercial operator authorizing the operator to conduct wagering on a greyhound race or a horse race. The Texas Racing Commission shall notify the commission when the Texas Racing Commission cancels or revokes a pari-mutuel license authorizing an operator to conduct wagering on a greyhound race or a horse race. The commission shall adopt rules for temporary suspension of a commercial operator's license pending reissuance of the license or reissuance of a permit to serve alcoholic beverages on the premises licensed by the commission.

C.S.H.B. 3186 provides that an applicant for a license required by this chapter shall pay an application fee in certain amounts for certain licenses as specified in this chapter, but the commission may increase an application fee if the amount prescribed by Subsection (a) does not cover the commission's cost of evaluating the application and issuing a license. Application fees are nonrefundable and must be in the form prescribed by the commission and be payable to the commission. The commission shall apply an application fee toward the cost of investigating the applicant's suitability for licensing or qualification under this chapter. The applicant shall pay any costs of investigation incurred in excess of the assessed application fee.

C.S.H.B. 3186 provides that a holder of a license issued under this chapter shall annually pay the commission a license fee in certain amounts for certain licenses specified in this chapter.

C.S.H.B. 3186 provides that a tax is imposed on the gross receipts received in connection with the premises of a commercial operator conducting poker gaming under this chapter. The tax rate is 18 percent of the gross receipts received by a commercial operator for poker gaming unless the poker gaming is for a charitable poker tournament. The tax rate is five percent of the gross receipts received by a licensed operator during a charitable poker tournament. The tax must be paid and reported as required by this chapter, and authorizes the comptroller to sweep or debit the licensed operator's bank account on a daily basis to collect the gross receipts tax due and payable; prohibits a licensed operator from conducting any poker gaming activity if, at the time the comptroller sweeps the account, the amount reported as required, is not available for collection. The report must be filed under oath on forms prescribed by the commission; requires the comptroller and the commission to adopt rules for the payment of the tax. A licensed operator required to file a tax return with the comptroller shall provide a copy of the tax return to the commission as prescribed by commission rule. The comptroller shall deposit the revenue collected under this section to the credit of the poker gaming fund.

C.S.H.B. 3186 provides that the poker gaming revenue fund (fund) is established as an account held outside the treasury. Money in the fund may only be used for payment of costs incurred by the state to regulate poker gaming and after a sufficient amount is retained in the fund to cover the costs in regulating poker gaming, the balance to be transferred on or before the 15th day of each month to the Texas Department of Housing and Community Affairs to be used as follows: 50 percent for grants to municipalities, counties and nonprofit organizations to support certain activities and the remainder to the housing trust fund.

C.S.H.B. 3186 makes other provisions related to penalties for failure to pay or report the required tax; provisions related to the recomputation of the tax, certain determinations made by the commission if no tax return under this chapter is made, certain jeopardy determinations, tax delinquencies, seizure and sale, and security. C.S.H.B. 3186 provides that Subtitle B, Title 2, Tax Code, applies to the administration, collection, and enforcement of the gross receipts tax imposed under Section 2004.401, except as modified by this chapter.

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C.S.H.B. 3186 provides that the commission shall adopt rules applicable to the operation of poker gaming at a licensed operator's premises as the commission determines necessary for the protection of the public health, safety, morals, and general welfare of the people of this state and of the reputation of this state's poker gaming industry. A licensed operator may conduct poker gaming on the premises covered by the license during the hours of operation allowed in the alcoholic beverage license or permit issued by the Texas Alcoholic Beverage Commission or in applicable local law, or at any time if the operator's hours of operation are not so limited. A licensed operator may elect other hours of operation. The hours of operation for poker gaming must be clearly posted in the poker gaming area. The hours of operation for a charitable poker tournament shall be determined by the commission and be specified in the permit.

C.S.H.B. 3186 provides for table limits for each poker gaming table shall be established by the licensed operator. The licensed operator may conduct tournaments at any time and charge certain fees specified in this chapter. An electronic poker table must meet certain statutory requirements specified in this chapter. A licensed operator shall establish on the operator's premises a bank to convert legal United States tender into chips or tokens and to convert chips or tokens into cash. All poker gaming conducted by a licensed operator shall be conducted certain chips or tokens or certain electronic poker tables specified in this chapter. The commission may inspect a licensed operator's chips or tokens to confirm compliance with this section. Poker gaming conducted by a licensed operator shall be played with one or more certain poker card decks or on certain electronic poker tables specified in this chapter. Not more than 50 separate poker hands may be played with the same poker card deck. Each poker card deck must be monitored and cataloged in a log that documents the exact location of the cards on a licensed operator's premises.

C.S.H.B. 3186 provides that all poker rules used in poker gaming conducted by a licensed operator shall be submitted to and approved by the commission. Certain employees of a licensed operator who handles cash must be bonded under certain terms and conditions specified in this chapter. During the operation of poker gaming, each individual licensed under this chapter shall wear in a prominently visible location on the individual's person a certain badge specified in this chapter issued by the commission and must surrender the badge after ceasing employment with a licensed operator under certain terms and conditions specified in this chapter.

C.S.H.B. 3186 provides that the commission by rule shall establish promotion bonus programs for bad beat hands and other bonus programs under certain terms and conditions specified in this chapter; provides that each licensed operator shall collect a collection fee on each poker hand played, establishes statutory maximums and minimums for the fee, and requires the commission to adopt rules necessary to administer this section.

C.S.H.B. 3186 provides that a promotion bonus fee may not exceed \$1 per hand. The promotion bonus fee shall be remitted to this state, after deducting the gross receipts tax, the fee used for bonus programs, and administrative fees not to exceed 20 percent of the promotion bonus fee.

C.S.H.B. 3186 provides that a licensed operator shall keep books and records in a manner that clearly shows the total amount of gross receipts and total deposits made by all poker gaming players, including any loss limits set for any player. The books and records kept by a licensed operator relating to poker gaming operations are not public information, and publication and dissemination of the materials by the commission are prohibited. The commission may publish and disseminate the total gross receipts of each licensed operator at the frequency and in the level of detail the commission considers appropriate. A licensed operator that is not an individual shall file a report of each change of the operator's officers and directors with the commission. The commission shall, not later than the 90th day after the date of the change, approve or disapprove the change. During the 90-day period, the operator's officer or director is entitled to exercise the powers of the position to which the officer or director was elected or appointed. The commission may require that a licensed operator provide the commission with a copy of the operator's federal income tax return not later than the 30th day after the date the return is filed with the federal government. The federal income tax returns submitted to the commission are not public information, and publication and dissemination of the materials by the commission are prohibited.

C.S.H.B. 3186 provides that the commission by rule shall provide for the maintenance of a list of persons who are to be excluded or ejected from poker gaming premises and the list may include

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certain information specified under this chapter. The list may include a person whose presence in poker gaming premises is determined by the commission to pose a threat to the interests of this state, to licensed poker gaming, or to both. In making a determination under this section, the commission may consider certain information specified in this chapter.

C.S.H.B. 3186 provides a licensed operator shall adopt an internal control system that complies with certain requirements specified in this chapter. A licensed operator or an applicant for an operator's license shall describe, in a manner approved or required by the director, the licensed operator's or applicant's administrative and accounting procedures in detail in a written system of internal control. A licensed operator or applicant for an operator's license shall submit a copy of the written system. A written system must include certain information specified in this chapter. The commission shall adopt minimum standards for internal control procedures.

C.S.H.B. 3186 provides that a person younger than 21 years of age may not play, be allowed to play, place wagers, or collect a communal pot, personally or through an agent, or be present during poker gaming at any premises authorized under this chapter or be employed as a poker gaming employee.

C.S.H.B. 3186 provides that video surveillance of the poker gaming conducted at each poker gaming table shall be provided by the licensed operator for a charitable poker tournament, with certain exceptions specified in this chapter, and under terms and conditions specified in this chapter. If a player at a poker gaming table disputes the decision of the dealer regarding the final disposition of an individual game, the player may file a complaint with the licensed operator. The licensed operator shall attempt to resolve a gaming dispute immediately on receiving a complaint. Players in a poker game must make a formal complaint of the dispute to the commission by the end of the next business day following the date of the poker game. The commission shall notify the licensed operator immediately of the complaint, and the operator shall send to the commission a copy of any video recording related to the complaint. The commission shall adopt rules and develop forms for use by players for resolution of complaints submitted by players under the provisions of this chapter and rules for surveillance at charitable poker tournaments.

C.S.H.B. 3186 provides that a licensed operator or an employee of the operator may question any person on the poker gaming premises who is suspected of violating this chapter. The licensed operator or the operator's employee is not criminally or civilly liable as a result of the questioning or for reporting the person suspected of the violation to the director or law enforcement authorities.

C.S.H.B. 3186 provides that the commission may conduct an appropriate investigation for certain purposes specified in this chapter. The commission may conduct an audit of a license holder's books and records as part of the investigation and shall conduct an audit if a recomputation of tax, as specified in this chapter, is at issue. If after an investigation the commission is satisfied that a license, registration, finding of suitability, or prior approval by the commission of a transaction for which approval was required or permitted under this chapter should be limited, conditioned, suspended, or revoked, or that a fine should be imposed, the Texas Lottery Commission executive director (executive director) shall initiate a hearing by filing a complaint under certain terms and conditions specified in this chapter with the commission and transmit certain information specified in this chapter to the commission. The complaint must comply with this chapter and contain certain information specified in this chapter. The substitute provides for service of the complaint, answers by a respondent, and hearing and post-hearing requirements, including recommendations for action on the complaint to, and action on the complaint, by the commission. Judicial review of an order or decision of the commission may be made under Chapter 2001, Government Code. Judicial review is under the substantial evidence rule.

C.S.H.B. 3186 provides for certain privileged documents and their protection from disclosure, release of confidential information held by the commission under certain terms and conditions specified in this chapter. The substitute provides for the authority of the commission to issue certain emergency orders under certain terms and conditions specified in this chapter containing information specified in this chapter. Judicial review of emergency orders may be made under Chapter 2001, Government Code. Judicial review is under the substantial evidence rule.

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C.S.H.B. 3186 provides the commission, the executive director, and the director are entitled to conduct an investigation of and obtain criminal history record information to assist in the investigation of certain persons under certain terms and conditions specified in this chapter, and requires the commission to obtain certain criminal history record information on the licensed operator and each holder of a 10 percent or greater equity or creditor interest in the licensed operator, on each anniversary of the date of issuance of an operator's license and the commission shall obtain criminal history record information on each licensed dealer or other employee, manufacturer, or distributor, not later than the first anniversary after the date of each license renewal. The commission may deny an application for a license or the commission may suspend or revoke a license or certificate of registration if the applicant fails on request to provide a complete legible set of fingerprints of a person required to be named in a license application. The executive director or the director may request the cooperation of the Department of Public Safety to perform certain background investigations of certain persons under certain terms and conditions specified in this chapter. Unless otherwise prohibited by law, the Department of Public Safety may retain any record or information submitted to it under the provisions of this chapter and the department shall notify the executive director or the director of any change in information provided to the executive director or the director when the department learns of the change.

C.S.H.B. 3186 provides that license fees and other fees required by this chapter must be paid to the commission on or before the dates provided by law for each fee and provides certain penalties for untimely payment. The penalty shall be collected in the same manner as other charges, license fees, and penalties under this chapter. The substitute makes certain provisions for failure to report, pay, or account for a fee, including the creation of an offense. The substitute makes certain provisions related to criminal fraud if a person knowingly engages in certain conduct specified in this chapter. The substitute makes other provisions for certain criminal offenses, and penalties therefore, related to the use of prohibited devices, use of counterfeit or unauthorized chips, tokens, playing cards, or other devices, cheating, unauthorized operation of poker gaming tables, possession of unlawful devices, unlawful manufacture, sale, or distribution of poker gaming equipment, penalties, gaming by minors, and conspiracy.

C.S.H.B. 3186 amends Section 47.02(c), Penal Code, to provide a defense to prosecution under this section if the actor reasonably believed that the conduct was permitted under Chapter 2004, Occupations Code.

C.S.H.B. 3816 amends Section 47.06(f), Penal Code, to provide a defense to prosecution under Sections 47.06(a) and (c), Penal Code, for certain activities for the sole purpose of shipping certain equipment to the premises of a licensed operator under Chapter 2004, Occupations Code, at which poker gaming may be conducted under the license.

C.S.H.B. 3186 amends Section 47.09(a), Penal Code, to provide a defense to prosecution under Chapter 49, Penal Code, that the conduct was authorized under Chapter 2004, Occupations Code.

C.S.H.B. 3186 adds Section 151.356 to the Tax Code to provide that an electronic or electromechanical gaming device intended for use for poker gaming under Chapter 2004, Occupations Code, is exempt from the tax imposed by this chapter and from other provisions of this chapter.

C.S.H.B. 3186 amends Section 467.035(a), Government Code, to provide that the commission may not employ or continue to employ a person who owns a financial interest in a licensed operator or other license holder under Chapter 2004, Occupations Code.

C.S.H.B. 3186 requires the commission to adopt rules, develop applications and forms, and establish procedures necessary to implement Chapter 2004, Occupations Code, no later than January 1, 2008.

EFFECTIVE DATE

September 1, 2007.

C.S.H.B. 3186 80(R)

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds language to require the commission to issue a license to a federally recognized Indian tribe that has a reservation in this state and to require that the tribe conduct its poker gaming operations at the tribe's Texas reservation.

The substitute clarifies the original bill's language related to the mandatory revocation of certain commercial operator's licenses held by operators other than tribes.