

By: Chavez

H.B. No. 653

A BILL TO BE ENTITLED

AN ACT

relating to charitable poker runs that benefit certain nonprofit organizations; providing a penalty.

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. CHARITABLE POKER RUNS

Sec. 2004.001. LEGISLATIVE FINDING. The legislature finds that a charitable poker run conducted in accordance with this chapter is a raffle authorized by Section 47(d), Article III, Texas Constitution.

Sec. 2004.002. DEFINITIONS. In this chapter:

(1) "Charitable purposes" has the meaning assigned by Section 2002.002.

(2) "Qualified nonprofit organization" means an organization organized for charitable or social purposes that does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services.

Sec. 2004.003. CHARITABLE POKER RUN AUTHORIZED. A qualified nonprofit organization may conduct a charitable poker run in accordance with this chapter.

Sec. 2004.004. CONDUCT OF POKER RUN. A charitable poker run shall be conducted, promoted, and administered exclusively by members of a qualified nonprofit organization.

1       Sec. 2004.005. USE OF PROCEEDS. (a) Except as provided by  
2 Subsection (b), all proceeds from the sale of tickets to  
3 participate in a charitable poker run must be used for the  
4 charitable purposes of the qualified nonprofit organization.

5       (b) A qualified nonprofit organization conducting a  
6 charitable poker run may use a portion of the proceeds from the sale  
7 of tickets to participate in the poker run, not to exceed \_\_\_\_  
8 percent of those proceeds, to provide prizes, including cash  
9 prizes, to winners of the poker run.

10       (c) For purposes of this section, a qualified nonprofit  
11 organization is considered to use the proceeds from the sale of  
12 tickets to participate in a charitable poker run for the  
13 organization's charitable purposes if not later than the 10th day  
14 after the poker run is completed the organization donates the  
15 proceeds to another qualified nonprofit organization that agrees to  
16 use the proceeds exclusively for the charitable purposes of the  
17 other organization.

18       (d) An organization to which proceeds are donated as  
19 described by Subsection (c) shall:

20               (1) use the proceeds for the charitable purposes of  
21 the organization not later than the second anniversary of the date  
22 the organization receives the proceeds; and

23               (2) maintain a record of the receipt of the proceeds  
24 and of the charitable purposes for which the proceeds are used for  
25 not less than four years after the date on which the organization  
26 receives the proceeds.

27       Sec. 2004.006. REQUIREMENTS FOR CHARITABLE POKER RUN. A

1 charitable poker run held under this chapter must:

2 (1) require a participant to purchase a ticket to  
3 participate in the event;

4 (2) require each participant to go to at least five  
5 different locations along a prescribed course;

6 (3) require each participant to collect a playing card  
7 drawn at random at each location or collect not less than five  
8 playing cards after visiting all the locations on the course; and

9 (4) determine the game winners by ranking the poker  
10 hands formed by each participant's playing cards according to the  
11 rules commonly used to rank poker hands or similar rules specified  
12 by the organization conducting the poker run.

13 Sec. 2004.007. INJUNCTIVE ACTION AGAINST UNAUTHORIZED  
14 POKER RUN. (a) A county attorney, district attorney, criminal  
15 district attorney, or the attorney general may bring an action in  
16 county or district court for a permanent or temporary injunction or  
17 a temporary restraining order prohibiting conduct involving a  
18 charitable poker run that:

19 (1) violates or threatens to violate state law  
20 relating to gambling; and

21 (2) is not being conducted in accordance with this  
22 chapter.

23 (b) Venue for an action under this section is in the county  
24 in which the conduct occurs or in which a defendant in the action  
25 resides.

26 Sec. 2004.008. CRIMINAL PENALTY. (a) A person commits an  
27 offense if the person knowingly violates Section 2004.005.

1           (b) An offense under this section is a Class B misdemeanor  
2 punishable by a fine in an amount not to exceed the amount of the  
3 proceeds involved in the offense.

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 Chapter 2004, Occupations  
22 Code.

23           SECTION 3. Section 47.09(a), Penal Code, is amended to read  
24 as follows:

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

27                   (1) was authorized under:

- 1 (A) Chapter 2001, Occupations Code;  
2 (B) Chapter 2002, Occupations Code; [~~or~~]  
3 (C) the Texas Racing Act (Article 179e, Vernon's  
4 Texas Civil Statutes); or  
5 (D) Chapter 2004, Occupations Code;

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

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

- 10 (A) Chapter 466, Government Code;  
11 (B) the lottery division of the Texas Lottery  
12 Commission;  
13 (C) the Texas Lottery Commission; or  
14 (D) the director of the lottery division of the  
15 Texas Lottery Commission.

16 SECTION 4. (a) The changes in law made by this Act to  
17 Sections 47.02(c) and 47.09(a), Penal Code, do not apply to an  
18 offense committed before the effective date of this Act. For  
19 purposes of this section, an offense is committed before the  
20 effective date of this Act if any element of the offense occurs  
21 before that date.

22 (b) An offense committed before the effective date of this  
23 Act is governed by the law as it existed on the date on which the  
24 offense was committed, and the former law is continued in effect for  
25 that purpose.

26 SECTION 5. This Act takes effect September 1, 2007.