

By: Ellis, Carona

S.B. No. 1359

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

important to ensure that gaming is:

(A) conducted honestly and competitively; and

(B) free from criminal and corruptive elements;

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

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

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

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

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

Sec. 2004.003. DEFINITIONS. In this chapter:

(1) "Affiliate" means a person who, directly or 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 license holder or who has applied for the approval of any act
11 or transaction for which approval is required or allowed under this
12 chapter.

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

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

25 (5) "Casino operator" means a person, other than the
26 owner license holder who contractually agrees to provide
27 operational and managerial services for the operation of a casino

1 on behalf of the owner license holder in return for receiving a
2 payment based wholly or partly on profits or receipts from the
3 casino.

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

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

10 (8) "Casino service license holder" means a person who
11 holds a casino service license.

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

13 (10) "Commission member" means a member of the
14 commission.

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

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

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

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

10 (15) "Executive director" means the executive
11 director of the commission.

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

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

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

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

1 (ii) simulcast wagering on pari-mutuel
2 greyhound or horse racing;

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

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

6 (B) does not include:

7 (i) bingo authorized by Chapter 2001;

8 (ii) charitable raffles authorized by
9 Chapter 2002; or

10 (iii) the state lottery conducted under
11 Chapter 466, Government Code.

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

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

21 (20) "Gaming employee":

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

26 (i) a boxman, a cashier, change personnel,
27 counting room personnel, a dealer, a floor person, a host empowered

1 to extend credit or complimentary services, a keno runner, a keno
2 writer, a machine mechanic, or security personnel;

3 (ii) a shift or pit boss or a supervisor or
4 manager involved in gaming activities;

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

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

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

15 (21) "Gross gaming revenue":

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

21 (i) cash received by an owner license
22 holder as winnings;

23 (ii) cash received by an owner license
24 holder in payment for credit extended by the owner license holder to
25 a patron for the purposes of gaming; and

26 (iii) compensation received by an owner
27 license holder for conducting any game in which the owner license

holder is not a party to a wager; and

(B) does not include:

(i) counterfeit money or tokens;

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

(iii) cash taken in fraudulent acts
perpetrated against an owner license holder for which the holder is
not reimbursed; or

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

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

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

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

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

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

(D) an investment adviser registered under
Section 203, Investment Advisers Act of 1940 (15 U.S.C. Section

1 80b-3), as amended;

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

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

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

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

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

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

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

25 (26) "License holder" means a person holding a license
26 issued under this chapter.

27 (27) "Manufacturer license holder" means the holder of

1 a manufacturer's license.

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

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

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

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

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

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

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

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

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

1 interest. The term includes a key executive of a license holder
2 that is a company and each person controlling a license holder that
3 is a company.

4 (37) "Project commitment" means, with respect to an
5 application for an owner's license for a proposed casino, the total
6 land and development costs for the casino and any related hotel and
7 entertainment, retail, and parking facilities, including the cost
8 of acquiring and preparing the underlying real estate, the cost of
9 obtaining requisite permits and approvals, the cost of acquiring
10 and installing slot machines, gaming devices, and associated
11 equipment, and fees for professional services and 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, wholly or partly 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, conducted in compliance with the
14 applicable provisions of 15 U.S.C. Sections 1173 and 1174 are legal
15 shipments of the devices into this state.

16 Sec. 2004.005. APPLICATION OF SUNSET ACT. The Texas Gaming
17 Commission is subject to Chapter 325, Government Code (Texas Sunset
18 Act). Unless continued in existence as provided by that chapter,
19 the commission is abolished and this chapter expires September 1,
20 2019.

21 [Sections 2004.006-2004.050 reserved for expansion]

22 SUBCHAPTER B. TEXAS GAMING COMMISSION

23 Sec. 2004.051. TEXAS GAMING COMMISSION. (a) The Texas
24 Gaming Commission is composed of five members appointed as provided
25 by Section 47a, Article III, Texas Constitution.

26 (b) In making appointments to the commission, the
27 appointing authorities shall attempt to achieve representation of

1 all the population groups of this state.

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

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

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

7 (3) must submit to the Texas Ethics Commission a
8 financial statement that contains the information required by
9 Subchapter B, Chapter 572, Government Code;

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

16 (5) may not be an applicant for or holder of a license
17 under this chapter or hold an equity interest or creditor interest
18 in an owner license holder requiring qualification under Section
19 2004.161; and

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

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

25 Sec. 2004.053. TERM. Members of the commission serve
26 staggered terms of six years, with the terms of one or two members,
27 as applicable, expiring January 1 of each even-numbered year.

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

4 Sec. 2004.055. BOND. (a) Before assuming the duties of
5 office, a member of the commission must execute a bond in the amount
6 of \$25,000 payable to the state and conditioned on the member's
7 faithful performance of the member's duties of office.

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

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

10 Sec. 2004.056. PROHIBITION OF CERTAIN ACTIVITIES. (a) A
11 member of the commission may not:

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

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

17 (b) A commission member or the spouse of a commission member
18 may not solicit or accept employment from a license holder or an
19 applicant for a license before the second anniversary of the date
20 the commission member's service on the commission ends.

21 Sec. 2004.057. REMOVAL. (a) It is a ground for removal
22 from the commission if a member:

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

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

27 (3) violates a prohibition established by Section

1 2004.056;

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

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

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

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

15 Sec. 2004.0571. APPLICATION OF FINANCIAL DISCLOSURE LAW.
16 For purposes of Chapter 572, Government Code, a member of the
17 commission, the executive director, and the division directors are
18 appointed officers of a major state agency.

19 Sec. 2004.058. PER DIEM; EXPENSES. (a) Each member of the
20 commission is entitled to:

21 (1) a per diem in an amount prescribed by
22 appropriation for each day spent in performing the duties of the
23 member; and

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

26 (b) Reimbursement for expenses under this section is
27 subject to any applicable limitation in the General Appropriations

1 Act.

2 Sec. 2004.059. EXECUTIVE DIRECTOR. (a) The commission
3 shall appoint an executive director, who serves at the pleasure of
4 the commission.

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

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

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

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

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

18 (g) The executive director may not, before the second
19 anniversary of the date the director's employment by the commission
20 ends, acquire a direct or indirect interest in or be employed by a
21 person licensed in the conduct of gaming or the provision of casino
22 services in this state.

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

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

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

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

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

7 (c) A suit against the commission must be brought in Travis
8 County.

9 Sec. 2004.063. AUDIT. The transactions of the commission
10 are subject to audit by the state auditor under Chapter 321,
11 Government Code.

12 [Sections 2004.064-2004.100 reserved for expansion]

13 SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

14 Sec. 2004.101. GENERAL POWERS. (a) All aspects of this
15 chapter, including those relating to licensing, qualification,
16 execution, and enforcement, shall be administered by the executive
17 director and the commission for the protection of the public and in
18 the public interest.

19 (b) The commission and the executive director have full
20 power and authority to hold hearings on matters before the
21 commission, and in connection to the hearings, to issue subpoenas,
22 to compel the attendance of witnesses at any place in this state, to
23 administer oaths, and to require testimony under oath. Any process
24 or notice relating to a hearing may be served in the manner provided
25 for service of process and notices in civil actions. The commission
26 and the executive director may pay transportation and other
27 expenses of witnesses as they consider reasonable.

1 (c) The executive director and the executive director's
2 authorized employees may:

3 (1) inspect and examine a premises where gaming is
4 conducted or equipment or supplies, including a slot machine or
5 other gaming device, or associated equipment is manufactured,
6 assembled, produced, programmed, sold, leased, marketed,
7 distributed, repaired, or modified for use in gaming;

8 (2) for good cause, seize and remove from a premises
9 and impound equipment or supplies for the purpose of examination
10 and inspection; and

11 (3) demand access to, inspect, examine, photocopy, or
12 audit papers, books, and records of applicants and license holders,
13 on their premises or elsewhere as practicable, in the presence of
14 the license holder or the license holder's agent, reporting the
15 gross income produced by a gaming business, verification of the
16 gross income, and other matters affecting the enforcement of this
17 chapter.

18 (d) For the purpose of conducting audits after the cessation
19 of gaming by a license holder, a former license holder shall
20 furnish, on demand of the executive director or the executive
21 director's authorized employees, books, papers, and records as
22 necessary to conduct the audits. The former license holder shall
23 maintain all books, papers, and records necessary for audits for
24 three years after the date of the surrender or revocation of the
25 license. If the former license holder seeks judicial review of a
26 deficiency determination or files a petition for a redetermination,
27 the former license holder must maintain all books, papers, and

1 records until a final order is entered on the determination.

2 Sec. 2004.102. RULEMAKING AUTHORITY. (a) The commission
3 shall adopt the rules the commission considers necessary or
4 desirable in the public interest in carrying out the policy and
5 provisions of this chapter.

6 (b) The rules shall set out:

7 (1) the method and form of application that an
8 applicant for a license must follow and complete before
9 consideration of an application by the commission;

10 (2) the information to be furnished by an applicant or
11 license holder concerning antecedents, habits, character,
12 associates, criminal record, business activities, and financial
13 affairs;

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

16 (4) the information to be furnished by a license
17 holder relating to the license holder's employees;

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

20 (6) the payment of fees or costs an applicant or
21 license holder must pay;

22 (7) the procedures for the issuance of temporary
23 licenses and temporary qualification to hold equity interests and
24 creditor interests in owner license holders;

25 (8) the manner and method of collection and payment of
26 fees and the issuance of licenses;

27 (9) the definition of "unsuitable method of

1 operation";

2 (10) the conditions under which the nonpayment of a
3 gambling debt by a license holder shall be deemed grounds for
4 disciplinary action;

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

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

10 (13) financial reporting and internal control
11 requirements for license holders;

12 (14) the manner in which winnings, compensation from
13 games and gaming devices, and gross gaming revenue must be computed
14 and reported by an owner license holder;

15 (15) requirements for the annual audit of the
16 financial statements of a license holder;

17 (16) requirements for periodic financial reports from
18 each license holder consistent with standards and intervals
19 prescribed by the commission;

20 (17) the procedures to be followed by a license holder
21 for excluding a person from a casino; and

22 (18) the procedures for exempting or waiving
23 institutional investors from the licensing requirements for
24 shareholders of publicly traded corporations.

25 Sec. 2004.103. AUTHORITY OF EXECUTIVE DIRECTOR. (a) With
26 commission approval, the executive director may create executive
27 positions as the director considers necessary to implement this

1 chapter.

2 (b) The executive director shall employ division directors
3 in the areas of audit, investigation, and enforcement. The
4 director of the audit division must:

5 (1) be a certified public accountant;

6 (2) have five or more years of progressively
7 responsible experience in general accounting; and

8 (3) have a comprehensive knowledge of the principles
9 and practices of corporate finance or must possess qualifications
10 of an expert in the field of corporate finance and auditing, general
11 finance, gaming, and economics.

12 (b-1) Other division directors must possess five or more
13 years of training and experience in the fields of investigation,
14 law enforcement, law, or gaming.

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

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

22 (1) direct and supervise all administrative actions of
23 the commission;

24 (2) bring legal action in the name and on behalf of the
25 commission;

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

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

7 (5) acquire furnishings, equipment, supplies,
8 stationery, books, and all other things the executive director
9 considers necessary to carry out the executive director's
10 functions; and

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

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

16 (b) The office of hearing examiners shall:

17 (1) hold hearings under the authority of the
18 commission on matters relating to the commission's administration
19 of this chapter as the commission orders; and

20 (2) report after hearing in the manner prescribed by
21 the commission.

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

24 (d) The office of hearing examiners is independent of the
25 executive director and is under the exclusive control of the
26 commission.

27 (e) The office of hearing examiners is under the direction

1 of a chief hearing examiner appointed by the commission.

2 (f) The commission may authorize the chief hearing examiner
3 to delegate to one or more hearing examiners the authority to hold
4 any hearing called by the chief hearing examiner.

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

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

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

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

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

21 Sec. 2004.106. RECORDS. (a) The executive director shall
22 maintain a file of all applications for licenses under this
23 chapter, together with a record of all action taken with respect to
24 the applications.

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

27 (c) The information made confidential by this subsection

1 may be revealed, wholly or partly, only in the course of the
 2 necessary administration of this chapter, under Section 2004.553,
 3 or on the order of a court of competent jurisdiction, except that
 4 the executive director or the commission may disclose the
 5 information to an authorized agent of an agency of the United
 6 States, another state, or a political subdivision of this state
 7 authorized under commission rules. Notice of the content of any
 8 information furnished or released under this subsection may be
 9 given to an affected applicant or license holder as prescribed by
 10 commission rule. The following information is confidential and not
 11 subject to disclosure under Chapter 552, Government Code:

12 (1) information requested by the commission or the
 13 executive director to be furnished under this chapter or that may
 14 otherwise be obtained relating to the finances, earnings, or
 15 revenue of an applicant or license holder;

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

20 (3) information provided to the commission or the
 21 executive director or a commission employee by a governmental
 22 agency or an informer or on the assurance that the information will
 23 be held in confidence and treated as confidential; and

24 (4) information obtained by the executive director or
 25 the commission from a casino service license holder relating to the
 26 manufacturing, modification, or repair of slot machines or other
 27 gaming devices.

Sec. 2004.107. REPRESENTATION BY ATTORNEY GENERAL. (a)

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

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

[Sections 2004.108-2004.150 reserved for expansion]

SUBCHAPTER D. OWNER'S LICENSE

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

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

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

Sec. 2004.152. ALLOCATION OF OWNER'S LICENSES. (a) The commission shall award 12 owner's licenses to applicants for casino-anchored destination attraction development projects as follows:

(1) seven owner's licenses in urban areas, allocated by population;

(2) two owner's licenses on islands in the Gulf of Mexico that are tourist destinations with at least 1,000 guest rooms available for visitors in hotels, motels, or condominiums

1 existing on January 1, 2007; and

2 (3) three additional owner's licenses, at locations:

3 (A) determined by the commission to achieve
4 targeted economic development or permanent new job creation; or

5 (B) selected for other considerations determined
6 appropriate by the commission.

7 (b) Notwithstanding Subsection (a):

8 (1) a license may not be issued in a county unless the
9 voters of the county have adopted a proposition legalizing casino
10 gaming at a local option election held under this chapter;

11 (2) not more than four owner's licenses may be issued
12 in one county; and

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

17 (c) In allocating all licenses under this section, the
18 commission shall consider, in addition to the other suitability
19 criteria described in this chapter, the ability of the proposed
20 casino facility to attract interstate or international tourism and
21 to develop jobs in political subdivisions in which there has been a
22 history of unemployment in excess of six percent for a period of
23 three consecutive years out of the preceding five years as
24 determined by the commission.

25 (d) For purposes of determining the location of a casino, a
26 casino is considered to be located in the county in which the main
27 public entrance to the casino is located.

1 (e) A person may not beneficially own, directly or
2 indirectly, an equity interest of more than five percent of the
3 total equity interest in more than three owner license holders.

4 (f) A person may not operate, either under an owner's
5 license or under an operator's license, more than three casinos.

6 (g) The commission may not award an owner's license to a
7 person unless the owner of the proposed project meets the residency
8 requirement under Section 47a(i), Article III, Texas Constitution.

9 Sec. 2004.153. APPLICATION. (a) Application for an
10 owner's license shall be made according to the rules of the
11 commission and shall contain information the commission finds
12 necessary to determine the suitability and eligibility of the
13 applicant, the eligibility of the proposed location, and the
14 economic impact of the overall casino project.

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

18 (1) proof that gaming has been approved through a
19 local option election by the county where the casino is to be
20 located;

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

26 (3) evidence that the applicant possesses, or
27 reasonably expects to obtain, all state, county, and municipal

1 permits and approvals necessary for the construction and operation
2 of the proposed casino within the time periods prescribed in this
3 chapter;

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

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

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

15 (d) An application for an owner's license must be
16 accompanied by the nonrefundable application fee set out in Section
17 2004.351.

18 Sec. 2004.154. MANDATORY REQUIREMENTS. (a) During the
19 first two years an individual holds an owner's license, the
20 individual must be a resident of this state and comply with the
21 residency requirements established by the commission.

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

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

1 (2) the company complies with all the laws of this
2 state.

3 (c) To be eligible to receive an owner's license to own a
4 casino, an applicant must submit an application to the commission
5 not less than 60 days after the later of:

6 (1) the date the commissioners court of the county
7 gives written notice to the commission under Section 2004.656 that
8 gaming as authorized under this chapter has been legalized through
9 a local option election; or

10 (2) the date the commission establishes procedures for
11 application.

12 (d) An application may not be considered filed for purposes
13 of this chapter that does not include the information prescribed by
14 Section 2004.153(b) or that is not accompanied by the prescribed
15 application fee.

16 Sec. 2004.155. LICENSE AWARD CONSIDERATIONS. (a) The
17 commission shall determine the initial and continuing suitability
18 of each applicant for or holder of an owner's license based on
19 suitability criteria the commission adopts to ensure that all owner
20 license holders are of good character, honesty, integrity, and
21 financial stability, that an owner license holder has sufficient
22 business probity, competence, and experience in gaming, and that an
23 owner license holder is otherwise qualified to be licensed.

24 (b) The commission shall give due consideration to the
25 protection of the public health, safety, morals, and general
26 welfare of the people of this state and for the reputation of the
27 state's gaming industry.

1 (c) The burden of proving suitability to receive or hold an
2 owner's license is on the applicant or license holder.

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

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

8 (2) each person holding, or proposed to receive, an
9 operator's license, occupational license, or manufacturer's
10 license employed by or doing business with the applicant or holder;
11 and

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

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

15 (1) has been convicted of a felony in the past 20 years
16 under the laws of this state, any other state, or the United States;

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

19 (3) has ever knowingly or intentionally submitted an
20 application for a license under this chapter that contained false
21 information;

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

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

26 (6) beneficially owns any material equity interest or
27 creditor interest in the applicant or holder and is a person

1 described by Subdivision (1), (2), or (3);

2 (7) holds a manufacturer's license or casino service
3 license;

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

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

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

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

13 (2) the person's ownership of a greyhound or horse
14 racing facility under the Texas Racing Act (Article 179e, Vernon's
15 Texas Civil Statutes).

16 Sec. 2004.156. ECONOMIC IMPACT ANALYSIS. (a) In
17 determining whether or, in the case of multiple applicants
18 competing for a limited number of owner's licenses within a county,
19 to whom to grant an owner's license, the commission shall consider
20 the following factors:

21 (1) the relative prospective revenues to be collected
22 by the state from the conduct of gaming at the casino and the
23 overall economic impact of each competing applicant's proposed
24 casino and associated facilities;

25 (2) the relative number of residents of this state who
26 would be employed in an applicant's proposed casino and any
27 proposed associated hotel and nongaming businesses and the relative

1 extent of the applicant's good faith plan to recruit, train, and
2 promote a workforce that reflects the diverse populations of this
3 state in all employment classifications;

4 (3) the relative extent to which an applicant's
5 proposed casino and any proposed associated hotel and nongaming
6 businesses could be reasonably expected to encourage interstate
7 tourism to this state;

8 (4) the relative extent to which the scope, design,
9 location, and construction of the applicant's casino and any
10 associated hotel and nongaming businesses could be reasonably
11 expected to contribute to developing a first-class gaming industry
12 in this state; and

13 (5) the applicant's experience in conducting licensed
14 gaming operations and the applicant's financial ability to promptly
15 construct and adequately maintain the casino sought to be licensed,
16 including the experience of partners of the applicant, of
17 affiliated companies of the applicant or its partners, of key
18 personnel of the applicant or its partners, and of operating
19 companies under contract with the applicant.

20 (b) To ensure that a requisite level of economic development
21 benefiting the people of this state accompanies each casino for
22 which an owner's license is granted, the commission shall require
23 an applicant, as a condition to receiving and holding an owner's
24 license, to commit to building a casino project that meets the
25 requirements for a casino-anchored destination attraction
26 development project established under Section 47a(g), Article III,
27 Texas Constitution.

1 Sec. 2004.157. PROOF OF LOCAL OPTION ELECTION. The
2 commission may not accept an application for an owner's license
3 relating to a casino proposed to be located in a county before
4 receiving certification from the commissioners court of the county
5 that gaming has been legalized through a local option election.

6 Sec. 2004.158. REVIEW OF APPLICATION. (a) The commission
7 shall issue an order approving or denying an application for an
8 owner's license not more than six months after the date of the
9 filing of the application.

10 (b) The commission may adopt rules for awarding temporary or
11 interim licensing the commission finds necessary to administer this
12 chapter.

13 Sec. 2004.159. TRANSFERABILITY. An owner's license is not
14 transferable and applies only to the specific site identified in
15 the license.

16 Sec. 2004.160. DENIAL AND REVOCATION. (a) The commission
17 may deny an application or revoke an owner's license for a
18 reasonable cause.

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

26 (c) If the holder of an owner's license fails to begin
27 construction of a casino within one year after the receipt of the

owner's license, or fails to begin gaming operations within three years after the receipt of the license, the license is forfeited, unless the commission, for good cause, has previously granted an appropriate extension of time.

(d) The right to receive and hold an owner'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 an owner's license does not have a vested interest or right in a license granted under this chapter.

Sec. 2004.161. REGISTRATION OF INTEREST IN LICENSE. (a) Except as provided by Subsection (b), a person who directly or indirectly owns an equity or creditor interest in an applicant for or holder of an owner'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.

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

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

(2) an institutional investor;

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

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

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

3 Sec. 2004.162. TRANSFERABILITY OF INTEREST. (a) Except as
4 provided by this subsection, an owner license holder may not issue
5 an equity or creditor interest to a person without the commission's
6 determination of the qualification of the proposed subscriber or
7 purchaser to hold the interest. An owner license holder that is a
8 publicly held company may issue equity or creditor interests of
9 five percent or less of its equity or creditor interest to any
10 person without the consent of the commission.

11 (b) A person beneficially owning more than five percent of
12 the equity or creditor interest of an owner license holder may not
13 transfer any portion of the interest in the license holder to any
14 person without the commission's determination of the qualification
15 of the proposed transferee to hold the interest.

16 (c) A subscriber or proposed transferee of an interest by an
17 owner license holder shall provide the commission with information
18 the commission considers necessary to determine the qualification
19 of the person. The commission, not later than 60 days after the
20 date of the application, shall determine the qualification of a
21 subscriber or proposed transferee and approve or deny the issuance
22 or transfer.

23 Sec. 2004.163. DETERMINATION OF QUALIFICATION. (a) The
24 commission shall determine the qualification of a person to acquire
25 or continue to hold an equity or creditor interest in an applicant
26 for or holder of an owner's license based on the qualification
27 requirements the commission adopts for the protection of the public

1 interest to ensure that the persons holding securities issued by
2 license holders are of good character, honesty, integrity, and
3 financial stability, and are otherwise qualified to hold the
4 interest.

5 (b) The burden of proving qualification to acquire or hold
6 an equity or creditor interest in a license holder is on the person
7 acquiring or holding the interest.

8 (c) A person is unsuitable to acquire or retain an equity or
9 creditor interest in an applicant for or holder of an owner's
10 license if the person would be unsuitable to receive an owner's
11 license under Section 2004.155(e).

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

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

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

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

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

6 [Sections 2004.164-2004.200 reserved for expansion]

7 SUBCHAPTER E. OPERATOR'S AND OCCUPATIONAL LICENSES

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

11 (b) A casino operator must hold a separate license for each
12 casino that the casino operator operates unless the operator is
13 also the owner of the premises and holds an owner's license for the
14 premises.

15 Sec. 2004.202. OCCUPATIONAL LICENSE. (a) A person may not
16 be employed as a gaming employee without holding an occupational
17 license.

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

21 (c) An owner must at all times have not less than one
22 occupational license holder designated as a key employee having
23 responsibility over all gaming activities who shall be available at
24 the casino at all times when gaming is conducted on the owner
25 license holder's premises.

26 (d) A gaming employee designated or determined to be a key
27 employee by the commission shall be issued an occupational license

1 designated as a key employee occupational license. In determining
2 whether an employee is a key employee, the commission is not
3 restricted by the title of the job performed by the employee but may
4 consider the functions and responsibilities of the employee in
5 making decisions.

6 (e) A person employed in the field of gaming as a gaming
7 employee shall obtain an occupational license designated as a
8 support occupational license. A person required to hold a support
9 occupational license may not be a gaming employee of or assist the
10 owner or operator license holder until the employee obtains a
11 support occupational license. A person licensed as a key employee
12 is not required to obtain a support occupational license.

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

19 (b) An application for an operator's license or an
20 occupational license must be accompanied by the required
21 application fee.

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

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

27 Sec. 2004.205. DETERMINATION OF SUITABILITY. (a) The

1 commission shall determine the suitability of an applicant for or
2 holder of an operator's license or occupational license based on
3 suitability criteria the commission adopts in order to ensure that
4 a license holder:

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

6 (2) has sufficient business probity, competence, and
7 training or experience in the gaming industry to perform the
8 function contemplated; and

9 (3) is otherwise qualified to be licensed.

10 (b) The burden of proving suitability to receive and hold an
11 operator's license or occupational license is on the applicant or
12 license holder.

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

20 (d) A person may not be found suitable to receive or hold an
21 operator's license or occupational license if that person would be
22 found unsuitable to hold an owner's license under Section
23 2004.155(e), except that an applicant for an operator's license or
24 occupational license who has been convicted of a felony may be found
25 suitable if the person is found to be adequately rehabilitated
26 under the rehabilitation requirements adopted by the commission,
27 and the applicant or license holder is otherwise suitable for

1 licensing.

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

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

13 (c) On the suspension or revocation of a license, the
14 license holder shall cease the provision of all services in any
15 capacity requiring a license under Section 2004.201 or 2004.202.

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

18 (1) receive, directly or indirectly, any
19 compensation, consideration, or payment of any kind relating to the
20 conduct of gaming in any capacity requiring a license under Section
21 2004.201 or 2004.202, other than the payment for services rendered
22 before the suspension or revocation; or

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

25 (e) The receipt and holding of a license is a privilege and
26 is not a right or property under the United States Constitution or
27 the Texas Constitution. An applicant for or holder of an operator's

1 license or occupational license does not have a vested interest or
2 right in a license granted under this chapter.

3 [Sections 2004.207-2004.250 reserved for expansion]

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

5 LICENSES

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

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

17 (c) A manufacturer's license is personal to the license
18 holder and allows the license holder to conduct business with any
19 casino.

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

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

27 (c) A person is required to obtain a casino service license

1 if the person:

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

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

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

8 (B) a payment the commission finds to be grossly
9 disproportionate to the value of the goods, property, or service
10 provided.

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

14 (e) A casino service license is personal to the license
15 holder and allows the license holder to conduct business with any
16 casino.

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

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

25 Sec. 2004.254. DETERMINATION OF SUITABILITY. (a) In
26 considering the suitability of a company applying for or holding a
27 manufacturer's license or casino service license to receive and

1 continue to hold the license, the commission shall consider the
 2 suitability of each principal manager and each holder of an equity
 3 interest and creditor interest in the company applicant to
 4 individually receive and hold a manufacturer's license or casino
 5 service license based on the suitability standards that apply to
 6 the company applicant. A person may not be found suitable to
 7 receive or hold a manufacturer's license or casino service license
 8 if that person would be found unsuitable to hold an owner's license
 9 under Section 2004.155(e).

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

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

25 (d) An owner or casino operator who has entered into a lease
 26 with a manufacturer license holder or casino services license
 27 holder whose license has been revoked or suspended may continue to

1 make payments on the lease based upon its original terms and
2 conditions without modification or may accelerate the lease and pay
3 it off, at the sole option of the owner or operator.

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

7 [Sections 2004.255-2004.300 reserved for expansion]

8 SUBCHAPTER G. LICENSE RENEWAL

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

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

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

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

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

25 (d) The fee for an owner's, operator's, occupational,
26 manufacturer's, or casino service license is in the amount
27 established by Section 2004.352 and must be paid annually. A

1 license holder may renew an unexpired license annually by meeting
2 the licensing requirements of the commission and by paying the
3 annual fee.

4 [Sections 2004.302-2004.350 reserved for expansion]

5 SUBCHAPTER H. APPLICATION AND LICENSE FEES

6 Sec. 2004.351. APPLICATION FEES. (a) An applicant for an
7 owner's license submitted before January 1, 2010, must pay a
8 \$250,000 application fee for each application. The fees shall be:

9 (1) deposited in the Texas casino gaming fund; and

10 (2) used for the timely mobilization of the
11 commission.

12 (b) An application fee tendered before January 1, 2008, is
13 not required to be accompanied by an application. An application
14 submitted before January 1, 2010, must be filed on a date determined
15 by commission rule.

16 (c) An application fee for an owner's license paid before
17 January 1, 2008, must be accompanied by a document indicating the
18 name of the applicant or an affiliate or partner of the applicant
19 and the name of the county in which the casino is proposed to be
20 located.

21 (d) An applicant submitting an application before January
22 1, 2010, may not apply for an owner's license for a site in a county
23 unless the application fee for a license in that county was paid
24 during the period set out in this section. If the applicant seeks
25 more than one license in a county, the applicant or its affiliates
26 or partners submitting an application before January 1, 2010, must
27 file the number of application fees designating that county that is

1 equal to the number of license holders in that county that the
2 applicant is seeking.

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

13 (f) An applicant for an owner's license who submits an
14 application on or after January 1, 2010, must pay an application fee
15 of \$100,000.

16 (g) An applicant for a manufacturer's license must pay an
17 application fee of \$200,000.

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

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

22 (j) A person registering and applying to qualify to hold an
23 equity interest or creditor interest in a license holder must pay an
24 application fee of \$100.

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

27 (l) All application fees must be in the form of a money order

1 or cashier's check and be payable to the Texas Gaming Commission.
2 Application fees are nonrefundable.

3 (m) Application fees shall be applied toward the cost of
4 investigating applicants' suitability for licensing or
5 qualification under this chapter. Any costs of investigation
6 incurred in excess of the application fee shall be paid by the
7 applicant.

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

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

12 (c) A holder of an operator's license must pay an annual
13 license fee of \$50,000.

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

16 (e) A holder of an equity interest or creditor interest in
17 any license holder that is required to qualify with the commission
18 must pay an annual fee of \$100.

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

21 [Sections 2004.353-2004.400 reserved for expansion]

22 SUBCHAPTER I. CASINO GAMING FUND

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

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

1 (c) The Texas casino gaming fund may be used only for the
2 operation of the commission and the administration of this chapter.
3 However, if the money in the fund exceeds the amount necessary for
4 the operation of the commission and the administration of this
5 chapter, the legislature may transfer any excess amount to the
6 general revenue fund.

7 (d) The operation of the commission and the administration
8 of this chapter shall be supported by fees generated under this
9 chapter and by a portion of the gaming taxes imposed by Section
10 2004.451. The operation of the commission may never be a charge
11 against the general revenues of this state except to the extent
12 those revenues are raised by taxes or fees imposed on gaming
13 activities.

14 [Sections 2004.402-2004.450 reserved for expansion]

15 SUBCHAPTER J. TAX ON GROSS GAMING REVENUE

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

21 (b) Five-sixths of the revenue from the tax imposed by this
22 section, with the exception provided by Subsection (d), is
23 allocated to the general revenue fund.

24 (c) Two-thirds and one-third of the remaining one-sixth of
25 the revenue from the tax imposed by this section are allocated to
26 the municipality and county, respectively, in which the casino to
27 which the license relates is located, or, if the casino is located

1 in an unincorporated area, the remaining one-sixth of the tax
2 imposed by this section is allocated to the county in which the
3 casino to which the license relates is located.

4 (d) Of the revenue allocated to the general revenue fund
5 under Subsection (b):

6 (1) one-tenth of one percent of that amount may be
7 appropriated only to the Department of State Health Services for
8 the department's compulsive gambling program under Section
9 461.018, Health and Safety Code;

10 (2) an amount determined by the commission in
11 consultation with the Texas Racing Commission necessary to
12 supplement the purses at licensed Texas horse racetracks so that
13 the purse for each race is greater than the average purse for
14 similar races in any other state shall be deposited to the credit of
15 the purse fund under Section 6.095, Texas Racing Act (Article 179e,
16 Vernon's Texas Civil Statutes); and

17 (3) \$200,000 may be appropriated each state fiscal
18 biennium only to the Department of Public Safety to be used to
19 provide grants to prosecuting attorneys for the investigation and
20 prosecution of offenses related to the possession of gambling
21 devices.

22 (e) An initial mobilization payment in the amount of
23 \$200,000 shall be transferred from the taxes imposed by this
24 section to the Department of State Health Services to be
25 appropriated for the purpose of mobilizing a program dedicated to
26 compulsive gambling resolution.

27 (f) The taxes imposed by this section are due and payable on

1 or before the 20th day of the month following the month in which the
2 taxes are imposed.

3 (g) If the amount of gaming taxes required to be reported
4 and paid under this section is later determined to be greater or
5 less than the amount actually reported and paid by the license
6 holder, the commission shall:

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

9 (2) refund any overpayment, with interest, to the
10 license holder.

11 (h) Interest must be computed, until paid, at the rate of
12 one percent per month from the first day of the first month
13 following either the due date of the additional gaming taxes or the
14 date of overpayment.

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

23 (b) In calculating gross gaming revenue from slot machines,
24 the actual cost to the license holder of any personal property
25 distributed to a patron as the result of a legitimate wager may be
26 deducted as a loss, but travel expenses, food, refreshments,
27 lodging, or services at the license holder's facility may not be

1 deducted. For the purposes of this subsection, "as the result of a
2 legitimate wager" means that the patron must make a wager before
3 receiving the personal property, regardless of whether the receipt
4 of the personal property is dependent on the outcome of the wager.

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

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

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

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

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

25 (e) In a case where a refund is granted, interest is allowed
26 at the rates provided in Section 111.064, Tax Code.

27 (f) A claim for refund of gaming taxes paid in excess of the

1 amount required to be reported and paid must be filed not later than
2 two years after the date of overpayment.

3 Sec. 2004.454. DETERMINATION OF DEFICIENCY. (a) If an
4 owner license holder fails to make a report of the gaming taxes as
5 required by this chapter, or if the executive director is not
6 satisfied with the report of the gaming taxes required to be paid to
7 the state under this chapter by an owner license holder, the
8 executive director may compute and determine the amount required to
9 be paid on the basis of:

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

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

21 (c) The executive director shall give prompt written notice
22 of a determination of a deficiency under this section to the owner
23 license holder. Except in the case of fraud or intent to evade the
24 payment of the gaming tax fee imposed by this chapter, a notice of a
25 determination of a deficiency must be mailed not later than two
26 years after the last day of the calendar month following the
27 applicable reporting period in which the deficiency occurred or not

1 later than two years after the report is filed by the owner license
2 holder, whichever is later.

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

6 (e) If overpayments and interest exceed underpayments,
7 penalties, and interest, the excess payment shall be refunded to
8 the owner license holder.

9 Sec. 2004.455. PETITION FOR REVIEW. (a) An owner license
10 holder against whom a determination is made under Section 2004.454
11 may petition the commission for a redetermination not later than
12 the 30th day after the date of the service of notice of the
13 determination. If a petition for redetermination satisfying the
14 requirements of Subsection (c) is not filed within the 30-day
15 period, the determination becomes final.

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

20 (c) A petition for redetermination must:
21 (1) specify the contested portions of the
22 determination of deficiency;
23 (2) specify the grounds for redetermination;
24 (3) state whether a hearing is requested; and
25 (4) be accompanied by payment in full of the
26 uncontested portion of the determination, including any interest
27 and penalties.

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

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

9 Sec. 2004.456. CERTAIN POLITICAL SUBDIVISION TAXES
10 PROHIBITED. A county, municipality, or other political subdivision
11 of this state may not impose a license fee or tax on a person
12 licensed to conduct gaming under this chapter. This section does
13 not prohibit the imposition of generally applicable taxes or of
14 fees for standard municipal services.

15 Sec. 2004.457. TAX ADMINISTRATION. (a) The commission
16 shall perform all functions incident to the administration,
17 collection, enforcement, and operation of a fee or tax imposed
18 under this chapter. The commission may adopt rules and prescribe
19 forms for the administration, collection, and enforcement of a fee
20 or tax and for the reporting of a fee or tax.

21 (b) Except as modified by this chapter, Subtitle B, Title 2,
22 Tax Code, applies to the administration, collection, and
23 enforcement of a tax imposed under this chapter. For purposes of
24 the application of Subtitle B, Title 2, Tax Code, to a tax imposed
25 under this chapter, the powers and duties assigned to the
26 comptroller under that subtitle are assigned to the commission.

27 [Sections 2004.458-2004.500 reserved for expansion]

1 SUBCHAPTER K. REGULATION OF CASINO OPERATIONS

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

7 (b) Casinos are entitled to operate 24 hours a day, seven
8 days a week. A license holder may elect other hours of operation.

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

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

15 Sec. 2004.503. REPORTING REQUIREMENTS. (a) An owner
16 license holder shall keep the license holder's books and records in
17 a manner that clearly shows the total amount of gross gaming revenue
18 and other revenues received.

19 (b) The books and records kept by an owner license holder
20 relating to gaming operations are not public records and the
21 publication and dissemination of the materials by the commission is
22 prohibited. The commission may publish and disseminate gaming
23 revenues of each owner license holder at a frequency and in the
24 level of detail as it considers appropriate.

25 (c) An owner license holder shall file a report of each
26 change of the corporate officers and directors with the commission.
27 The commission shall, not later than the 90th day after the date of

1 the change, approve or disapprove the change. During the 90-day
2 period, the officer or director is entitled to exercise the powers
3 of the office to which the officer or director was elected or
4 appointed.

5 (d) An owner license holder shall report to the executive
6 director in writing a change in company employees who have been
7 designated as key employees.

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

12 Sec. 2004.504. EXCLUSION OF PERSONS. (a) The commission by
13 rule shall provide for the establishment of a list of persons who
14 are to be excluded or ejected from a casino. The list may include a
15 person whose presence in the establishment is determined by the
16 commission to pose a threat to the interests of this state, to
17 licensed gaming, or to both interests.

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

20 (1) prior conviction of a crime that is a felony in
21 this state or under the laws of the United States or a crime
22 involving moral turpitude or a violation of the gaming laws of a
23 state; or

24 (2) violation of or conspiracy to violate the
25 provisions of this chapter relating to:

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

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

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

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

8 Sec. 2004.505. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) An
9 owner license holder shall adopt an internal control system that
10 provides for:

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

13 (2) the provision of reliable records, accounts, and
14 reports of transactions, operations, and events, including reports
15 to the executive director and the commission.

16 (b) The internal control system must be designed to
17 reasonably ensure that:

18 (1) assets are safeguarded;

19 (2) financial records are accurate and reliable;

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

22 (4) transactions are recorded adequately to allow
23 proper reporting of gaming revenue and of fees and taxes and to
24 maintain accountability for assets;

25 (5) access to assets is allowed only in accordance
26 with management's specific authorization;

27 (6) recorded accountability for assets is compared

1 with actual assets at reasonable intervals and appropriate action
2 is taken with respect to any discrepancies; and

3 (7) functions, duties, and responsibilities are
4 appropriately segregated and performed in accordance with sound
5 practices by competent, qualified personnel.

6 (c) An owner license holder and an applicant for an owner's
7 license shall describe, in a manner approved or required by the
8 executive director, the license holder's or applicant's
9 administrative and accounting procedures in detail in a written
10 system of internal control. An owner license holder and applicant
11 for an owner's license shall submit a copy of the license holder's
12 or applicant's written system to the executive director. A written
13 system must include:

14 (1) an organizational chart depicting appropriate
15 segregation of functions and responsibilities;

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

18 (3) a detailed, narrative description of the
19 administrative and accounting procedures designed to satisfy the
20 requirements of Section 2004.503(a);

21 (4) a written statement signed by the license holder's
22 chief financial officer and either the license holder's chief
23 executive officer or an owner license holder attesting that the
24 system satisfies the requirements of this section;

25 (5) if the written system is submitted by an
26 applicant, a letter from an independent certified public accountant
27 stating that the applicant's written system has been reviewed by

1 the certified public accountant and complies with the requirements
2 of this section; and

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

4 (d) The commission shall adopt minimum standards for
5 internal control procedures.

6 Sec. 2004.506. AGE REQUIREMENTS. A person under the age of
7 21 years may not:

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

11 (2) be employed as a gaming employee.

12 Sec. 2004.507. ACCEPTANCE OF NEGOTIABLE INSTRUMENTS. (a)
13 A negotiable instrument evidencing a gaming transaction may be
14 enforced by legal process.

15 (b) A license holder may accept an incomplete negotiable
16 instrument that is signed by a patron and states the amount of the
17 debt. The license holder may complete the instrument as is
18 necessary for the instrument to be presented for payment.

19 (c) A license holder:

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

22 (2) may accept a negotiable instrument that is payable
23 to an affiliate or may complete a negotiable instrument in the name
24 of an affiliate as payee if the negotiable instrument otherwise
25 complies with this section and the records of the affiliate
26 pertaining to the negotiable instrument are made available to the
27 executive director on request.

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

4 (e) Any person, license holder, or the agents or employees
5 of the person or license holder who violate this section are subject
6 only to the penalties provided in this chapter relating to
7 disciplinary actions. The failure of a person to comply with this
8 section or commission rules does not invalidate a negotiable
9 instrument or affect the ability to enforce the negotiable
10 instrument or the transaction that the negotiable instrument
11 represents.

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

16 (b) A claim by a patron of a license holder for payment of a
17 gaming debt not evidenced by a negotiable instrument may be
18 resolved by the executive director under commission rules.

19 (c) The executive director shall send a copy of the
20 director's ruling by first class mail to the attorneys of record and
21 shall keep an appropriate copy of the mailing. If a party is not
22 represented by an attorney of record, the executive director shall
23 send a copy of the ruling by first class mail to the party and shall
24 keep an appropriate record of the mailing.

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

1 (e) A party aggrieved by the executive director's ruling is
2 entitled to have the claim resolved by the commission in a contested
3 case if the party files a written complaint with the commission
4 challenging the executive director's decision not later than the
5 20th day after the date on which the party or the party's attorney
6 of record is notified by mail.

7 Sec. 2004.509. QUESTIONING AND DETENTION OF PERSONS. (a)
8 An owner license holder or the license holder's officer, employee,
9 or agent may question any person on the license holder's premises
10 suspected of violating this chapter. The owner license holder or
11 the license holder's officer, employee, or agent is not criminally
12 or civilly liable:

13 (1) as a result of the questioning; or
14 (2) for reporting the person suspected of the
15 violation to the executive director or law enforcement authorities.

16 (b) An owner license holder or the license holder's officer,
17 employee, or agent who has reasonable cause to believe that there
18 has been a violation of this chapter in the establishment by a
19 person may take that person into custody and detain the person in
20 the establishment in a reasonable manner and for a reasonable
21 length of time. The taking into custody and detention does not
22 render the license holder or the license holder's officer,
23 employee, or agent criminally or civilly liable unless it is
24 established by clear and convincing evidence that the taking into
25 custody and detention are unreasonable under all the circumstances.

26 (c) An owner license holder or the license holder's officer,
27 employee, or agent is not entitled to the immunity from liability

provided by Subsection (a) or (b) unless there is displayed in a conspicuous place in the license holder's establishment a notice in bold-faced type, clearly legible, and in substantially this form:

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

[Sections 2004.510-2004.550 reserved for expansion]

SUBCHAPTER L. ENFORCEMENT

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

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

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

(3) aid in adopting rules;

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

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

(b) If after an investigation the executive director is satisfied that a license should be limited, conditioned, suspended, or revoked, or that a fine should be levied, the executive director

1 shall initiate a hearing by filing a complaint with the commission
 2 and transmit a summary of evidence that bears on the matter and the
 3 transcript of testimony at an investigative hearing conducted by or
 4 on behalf of the executive director regarding the license holder.
 5 The complaint must be a written statement of charges that must set
 6 forth in ordinary and concise language the acts or omission with
 7 which the respondent is charged. The complaint must specify the
 8 statute or rule that the respondent is alleged to have violated. A
 9 complaint must contain a factual allegation and shall not consist
 10 merely of charges raised on the language of the statute or rule. On
 11 the filing of the complaint, the executive director shall serve a
 12 copy of the complaint on the respondent either personally or by
 13 registered or certified mail at the respondent's address on file
 14 with the executive director.

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

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

21 (e) The hearing examiner shall conduct proceedings under
 22 Chapter 2001, Government Code. After the proceedings, the hearing
 23 examiner may recommend that the commission take any appropriate
 24 action, including revocation, suspension, limitation or
 25 conditioning of a license, or imposition of a fine not to exceed
 26 \$5,000 for each violation.

27 (f) The commission shall review the recommendation. The

1 commission may remand the case to the hearing examiner for the
2 presentation of additional evidence on a showing of good cause as to
3 why the evidence could not have been presented at the previous
4 hearing.

5 (g) The commission shall accept, reject, or modify the
6 recommendation.

7 (h) If the commission limits, conditions, suspends, or
8 revokes a license or imposes a fine, the commission shall issue its
9 written order.

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

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

17 Sec. 2004.552. PRIVILEGED DOCUMENTS. (a) A communication
18 or document of an applicant or license holder that is required by
19 law or commission rule or by a subpoena issued by the commission and
20 that is to be made or transmitted to the commission or the executive
21 director is privileged and does not impose liability for defamation
22 or constitute a ground for recovery in a civil action by a person
23 other than the commission.

24 (b) If a document or communication contains information
25 that is privileged, the privilege is not waived or lost because the
26 document or communication is disclosed to the commission or the
27 executive director.

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

3 (1) the commission and the executive director may not
4 release or disclose privileged information, documents, or
5 communications provided by an applicant and required by a lawful
6 court order after timely notice of the proceedings has been given to
7 the applicant or license holder without the prior written consent
8 of the applicant or license holder;

9 (2) the commission and the executive director shall
10 maintain all privileged information, documents, and communications
11 in a secure place accessible only to members of the commission and
12 the executive director; and

13 (3) the commission shall adopt procedures to protect
14 the privileged nature of information, documents, and
15 communications provided by an applicant or license holder.

16 Sec. 2004.553. RELEASE OF CONFIDENTIAL INFORMATION. An
17 application to a court for an order requiring the commission or the
18 executive director to release any information declared by law to be
19 confidential shall be made only on a motion in writing delivered not
20 later than the 10th day before the date of application to the
21 commission, the attorney general, and all persons who may be
22 affected by the entry of the order. Copies of the motion and all
23 papers filed in support of it shall be served with the notice by
24 delivering a copy in person or by certified mail to the last known
25 address of the person to be served.

26 Sec. 2004.554. EMERGENCY ORDERS. (a) The commission may
27 issue an emergency order for suspension, limitation, or

1 conditioning of a license or work permit or may issue an emergency
2 order requiring a casino to keep an individual license holder from
3 the premises of the licensed gaming establishment or to not pay the
4 license holder any remuneration for services or any profits,
5 income, or accruals on the license holder's investment in the
6 casino.

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

9 (1) a license holder has wilfully failed to report,
10 pay, or truthfully account for a fee imposed under this chapter or
11 wilfully attempted in any manner to evade or defeat a fee or
12 payment;

13 (2) a license holder or gaming employee has cheated at
14 a gambling game; or

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

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

21 (d) An emergency order may be issued only with the approval
22 of and under the signature of four or more members of the
23 commission.

24 (e) An emergency order is effective immediately on issuance
25 and service on the license holder or resident agent of the license
26 holder, gaming employee, or, in cases involving registration or
27 findings of suitability, on issuance and service on the person or

entity involved or resident agent of the entity involved. An emergency order may suspend, limit, condition, or take other action in relation to the license of one or more persons in an operation without affecting other individual license holders or the casino. An emergency order remains effective until further order of the commission or final disposition of the case.

(f) Not later than the fifth day after the date of issuance of an emergency order, the executive director shall file a complaint and serve it on the person or entity involved. The person or entity against whom the emergency order has been issued and served is entitled to a hearing before the commission and to judicial review of the decision and order of the commission under Chapter 2001, Government Code. Judicial review is under the substantial evidence rule.

[Sections 2004.555-2004.600 reserved for expansion]

SUBCHAPTER M. PENALTIES AND OFFENSES

Sec. 2004.601. FAILURE TO PAY FEES. (a) 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.

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

Sec. 2004.602. FAILURE TO REPORT, PAY, OR ACCOUNT FOR FEE OR

1 TAX. (a) A person commits an offense if the person wilfully fails
2 to report, pay, or truthfully account for a fee or tax imposed under
3 this chapter or wilfully attempts in any manner to evade or defeat a
4 fee or tax.

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

6 Sec. 2004.603. GAMING FRAUD. (a) A person commits an
7 offense if the person knowingly:

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

11 (2) places, increases, or decreases a bet or
12 determines the course of play after acquiring knowledge, not
13 available to all players, of the outcome of the game or an event
14 that affects the outcome of the game or that is the subject of the
15 bet or aids anyone in acquiring such knowledge for the purpose of
16 placing, increasing, or decreasing a bet or determining the course
17 of play contingent on that event or outcome;

18 (3) claims, collects, or takes, or attempts to claim,
19 collect, or take, money or anything of value in or from a gambling
20 game, with intent to defraud, without having made a wager
21 contingent on the game, or claims, collects, or takes an amount
22 greater than the amount won;

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

27 (5) places or increases a bet after acquiring

1 knowledge of the outcome of the game or other event that is the
2 subject of the bet, including past posting and pressing bets;

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

6 (7) manipulates, with the intent to cheat, a component
7 of a gaming device in a manner contrary to the designed and normal
8 operational purpose for the component, including varying the pull
9 of the handle of a slot machine, with knowledge that the
10 manipulation affects the outcome of the game or with knowledge of an
11 event that affects the outcome of the game.

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

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

18 (1) projecting the outcome of the game;
19 (2) keeping track of the cards played;
20 (3) analyzing the probability of the occurrence of an
21 event relating to the game; or

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

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

26 Sec. 2004.605. USE OF COUNTERFEIT OR UNAUTHORIZED TOKEN,
27 CHIP, OR COIN. (a) A person commits an offense if the person

1 knowingly uses counterfeit chips or tokens in a gambling game.

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

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

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

13 (c) A person, other than an authorized employee of an owner
14 license holder acting in furtherance of the person's employment
15 within an establishment, commits an offense if the person knowingly
16 has on the person's body or in the person's possession on or off the
17 premises of a casino a device intended to be used to violate the
18 provisions of this chapter.

19 (d) A person, other than an authorized employee of an owner
20 license holder acting in furtherance of the person's employment
21 within an establishment, commits an offense if the person knowingly
22 has on the person's body or in the person's possession on or off the
23 premises of a casino a key or device known to have been designed for
24 the purpose of and suitable for opening, entering, or affecting the
25 operation of a gambling game, a drop box, or an electronic or
26 mechanical device connected to the game or box or for removing money
27 or other contents from the game or box.

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

(1) lead or lead alloys;

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

(3) melting pots or other receptacles;

(4) torches; and

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

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

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

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

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

Sec. 2004.607. POSSESSION OF UNLAWFUL DEVICES. (a) A

1 person commits an offense if the person knowingly possesses any
2 slot machine or other gaming device that has been manufactured,
3 sold, or distributed in violation of this chapter.

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

5 Sec. 2004.608. UNLAWFUL MANUFACTURE, SALE, OR DISTRIBUTION
6 OF GAMING EQUIPMENT. (a) A person commits an offense if the person
7 manufactures, sells, or distributes cards, chips, dice, a game, or
8 a device intended to be used to violate this chapter.

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

12 (1) affects the result of a wager by determining win or
13 loss; or

14 (2) alters the normal criteria of random selection
15 that affect the operation of a game or determine the outcome of a
16 game.

17 (c) A person commits an offense if the person instructs
18 another person in cheating or in the use of a device for cheating at
19 any game authorized to be conducted at a casino, with the knowledge
20 or intent that the information or use may be employed to violate
21 this chapter.

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

24 Sec. 2004.609. REPORTING PENALTIES. (a) A person commits
25 an offense if the person, in a license application, in a book or
26 record required to be maintained by this chapter or a rule adopted
27 under this chapter, or in a report required to be submitted by this

1 chapter or a rule adopted under this chapter:

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

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

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

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

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

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

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

18 Sec. 2004.611. GENERAL PENALTY. (a) A person commits an
19 offense if the person knowingly or wilfully violates, attempts to
20 violate, or conspires to violate a provision of this chapter
21 specifying a prohibited act.

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

24 [Sections 2004.612-2004.650 reserved for expansion]

25 SUBCHAPTER N. LOCAL OPTION ELECTIONS

26 Sec. 2004.651. ORDERING LOCAL OPTION ELECTION. The
27 commissioners court of a county may at any time order an election to

1 authorize casino gaming under this chapter in that county.
 2 However, an election may not be held before the date of the election
 3 at which the constitutional amendment authorizing the legislature
 4 to authorize limited casino gaming proposed by the 80th
 5 Legislature, Regular Session, 2007, is submitted to the voters.
 6 The local option election authorized by this section may be held on
 7 the same date as the election at which the constitutional amendment
 8 proposed by the 80th Legislature, Regular Session, 2007, is
 9 presented to the voters. The commissioners court shall order and
 10 hold an election to legalize gaming under this chapter in the county
 11 if the commissioners court is presented with a petition that meets
 12 the requirements of Section 2004.652 and is certified as valid
 13 under Section 2004.653.

14 Sec. 2004.652. PETITION REQUIREMENTS. (a) A petition for a
 15 legalization election must include a statement substantially as
 16 follows before the space reserved for signatures on each page:
 17 "This petition is to require that an election be held in (name of
 18 county) to legalize casino gaming in (name of county)."

19 (b) A petition is valid only if it is signed by registered
 20 voters of the county in a number equal to or greater than the lesser
 21 of three percent of the total number of votes cast for governor by
 22 qualified voters of the county in the most recent gubernatorial
 23 general election.

24 (c) Each voter must enter beside the voter's signature the
 25 date the voter signs the petition. A signature may not be counted
 26 as valid if the date of signing is earlier than the 90th day before
 27 the date the petition is submitted to the commissioners court. A

1 signature may be affixed to a petition before November 6, 2007. A
2 petition may not be presented to the governing body of a county
3 before November 6, 2007.

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

7 Sec. 2004.653. VERIFICATION. (a) Not later than the fifth
8 day after the date a petition for an election under this chapter is
9 received in the office of the commissioners court, the
10 commissioners court shall submit the petition for verification to
11 the county clerk.

12 (b) The county clerk shall determine whether the petition is
13 signed by the required number of registered voters of the county.
14 Not later than the 30th day after the date the petition is submitted
15 to the clerk for verification, the clerk shall certify in writing to
16 the commissioners court whether the petition is valid or invalid.
17 If the clerk determines that the petition is invalid, the clerk
18 shall state the reasons for that determination.

19 Sec. 2004.654. ORDERING ELECTION. If the county clerk
20 certifies that a petition is valid, not later than the 30th day
21 after the date of certification, the commissioners court shall
22 order that an election be held in the county on the next uniform
23 election date under Section 41.001, Election Code, that allows
24 sufficient time to comply with applicable provisions of law,
25 including Section 3.005, Election Code. The commissioners court
26 shall state in the order the issue to be voted on. The county clerk
27 shall notify the commission by certified mail, return receipt

1 requested, that an election has been ordered.

2 Sec. 2004.655. BALLOT PROPOSITION. The ballot in a
3 legalization election shall be printed to provide for voting for or
4 against the proposition: "Legalizing casino gaming within (name of
5 county)."

6 Sec. 2004.656. ELECTION RESULTS. (a) If the majority of
7 the votes cast in a legalization election favor the legalization of
8 casino gaming, casino gaming authorized under this chapter is
9 permitted within the county holding the election effective on the
10 10th day after the date of the election.

11 (b) The commissioners court of a county in which a
12 legalization election has been held shall give written notice of
13 the results of the election to the commission not later than the
14 third day after the date the election is canvassed.

15 (c) If less than a majority of the votes cast in a
16 legalization election in any county are cast in favor of the
17 legalization of casino gaming, casino gaming is not permitted in
18 the county, and a subsequent election on the issue may not be held
19 in the county before the corresponding uniform election date one
20 year after the date of the election.

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

27 SECTION 2. Section 47.02(c), Penal Code, is amended to read

as follows:

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

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

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

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

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

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

(6) consisted entirely of participation in authorized games in a casino licensed under Chapter 2004, Occupations Code.

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

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

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

(2) to another jurisdiction where the possession or

1 use of the device, equipment, or paraphernalia was legal.

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

4 (a) It is a defense to prosecution under this chapter that
5 the conduct:

6 (1) was authorized under:

7 (A) Chapter 2001, Occupations Code;

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

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

11 (D) Chapter 2004, Occupations Code;

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

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

16 (A) Chapter 466, Government Code;

17 (B) the lottery division of the Texas Lottery
18 Commission;

19 (C) the Texas Lottery Commission; or

20 (D) the director of the lottery division of the
21 Texas Lottery Commission.

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

24 Sec. 151.356. ELECTRONIC AND ELECTROMECHANICAL GAMING
25 DEVICES. An electronic or electromechanical gaming device
26 permitted under Chapter 2004, Occupations Code, is exempt from the
27 tax imposed by this chapter and from the other provisions of this

1 chapter.

2 SECTION 6. Article 6, Texas Racing Act (Article 179e,
3 Vernon's Texas Civil Statutes), is amended by adding Section 6.095
4 to read as follows:

5 Sec. 6.095. SPECIAL ALLOCATION TO PURSES. (a) The
6 commission shall administer a purse fund consisting of money
7 transferred to the fund from the gaming tax under Section
8 2004.451(d)(2), Occupations Code.

9 (b) The commission shall determine the average purse in each
10 state that permits pari-mutuel wagering on horse races for each
11 type of horse race conducted at a licensed racetrack in this state.

12 (c) The commission shall distribute money from the purse
13 fund to licensed horse racetracks in this state as necessary to
14 supplement the purse for each race so that the resulting purse is
15 greater than the average purse for similar races in any other state.

16 SECTION 7. All funds in the Texas casino gaming fund are
17 appropriated to the Texas Gaming Commission for the operation of
18 the commission and the administration of Chapter 2004, Occupations
19 Code, as added by this Act, for the biennium ending August 31, 2009.

20 SECTION 8. Not later than January 1, 2008, the initial
21 members of the Texas Gaming Commission shall be appointed as
22 provided by Section 47a, Article III, Texas Constitution, to terms
23 as follows:

24 (1) the initial term of the member appointed under
25 Section 47a(c)(1) expires January 1, 2010;

26 (2) the initial terms of the members appointed under
27 Sections 47a(c)(2) and (4) expire January 1, 2012; and

1 (3) the initial terms of the members appointed under
2 Sections 47a(c)(3) and (5) expire January 1, 2014.

3 SECTION 9. (a) Subchapter N, Chapter 2004, Occupations
4 Code, as added by this Act, takes effect September 1, 2007.

5 (b) The remainder of this Act takes effect on the date on
6 which the constitutional amendment proposed by the 80th
7 Legislature, Regular Session, 2007, authorizing the legislature to
8 authorize the operation of limited casino gaming, creating the
9 Texas Gaming Commission, and authorizing the operation of video
10 lottery games takes effect. If that amendment is not approved by
11 the voters, this Act has no effect.