

By: Ellis

S.B. No. 1452

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain ocean-going ships on which gambling is offered and to the application of certain gambling offenses to the ships; creating offenses and providing 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. DAY CRUISE CASINO SHIPS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2004.001. DEFINITIONS. In this chapter:

(1) "Casino" means a part of a ship in which gaming is conducted.

(2) "Casino operator" means a person who conducts gaming aboard a day cruise casino ship.

(3) "Commission" means the Texas Commission of Licensing and Regulation.

(4) "Day cruise casino ship" means an ocean-going vessel on a cruise of not more than 24 hours on which gaming is conducted in the territorial waters of this state during the cruise.

(5) "Department" means the Texas Department of Licensing and Regulation.

(6) "Executive director" means the executive director of the department.

1 (7) "Gaming" means any betting activity described in
2 Chapter 47, Penal Code, including an activity that uses gaming
3 equipment or devices.

4 (8) "Gaming employee" means any individual directly
5 connected with the operation of a game on a day cruise casino ship.
6 The term does not include a person who is:

7 (A) required to hold a cruise ship operator
8 license or a casino operator license under this chapter; or

9 (B) employed on a day cruise casino ship
10 exclusively:

11 (i) in connection with preparation or
12 serving of food or beverages; or

13 (ii) as a crew member or officer
14 responsible for operating or navigating the day cruise casino ship.

15 (9) "License holder" means any person holding a
16 license issued under this chapter.

17 Sec. 2004.002. RULES. (a) The commission may adopt rules
18 for the administration of this chapter.

19 (b) The commission shall adopt rules to:

20 (1) prohibit and prevent gambling by a person younger
21 than 21 years of age; and

22 (2) prohibit and prevent a person younger than 16
23 years of age from boarding a day cruise casino ship unless the
24 person is accompanied by a parent, conservator, guardian, or other
25 legal custodian of the person.

26 [Sections 2004.003-2004.050 reserved for expansion]

27 SUBCHAPTER B. LICENSES

1 Sec. 2004.051. CRUISE SHIP OPERATOR LICENSE REQUIRED. A
2 person may not operate a day cruise casino ship unless the person
3 holds a cruise ship operator license under this chapter.

4 Sec. 2004.052. CASINO OPERATOR LICENSE REQUIRED. A person
5 may not operate a casino on a day cruise casino ship unless the
6 person holds a casino operator license under this chapter.

7 Sec. 2004.053. GAMING EMPLOYEE LICENSE REQUIRED. A person
8 may not be employed as a gaming employee on a day cruise casino ship
9 unless the person holds a gaming employee license under this
10 chapter.

11 Sec. 2004.054. FEES. (a) The fee for a cruise ship
12 operator license is \$10,000 per ship.

13 (b) Except as provided by Subsection (a), the commission
14 shall set fees for the issuance of a license or renewal of a license
15 under this chapter in amounts that are reasonable and necessary to
16 cover the costs of administering this chapter, including the costs
17 of background investigations and fingerprint and criminal history
18 record checks.

19 (c) The commission may enter into an interagency contract
20 with the Department of Public Safety to provide background
21 investigations or to provide fingerprint and criminal history
22 record checks required under this chapter.

23 Sec. 2004.055. LICENSE APPLICATION. (a) An applicant for a
24 license under this chapter shall file a written application with
25 the executive director on a form prescribed by the executive
26 director. The application must be accompanied by the appropriate
27 fee.

1 (b) An application for a license must include:

2 (1) if the applicant is an individual:

3 (A) the applicant's full name;

4 (B) the applicant's date and place of birth;

5 (C) a physical description of the applicant;

6 (D) the applicant's current address and
7 telephone number;

8 (E) the applicant's social security number; and

9 (F) a statement by the applicant disclosing the
10 applicant's arrest or conviction for any felony or misdemeanor
11 offense other than a misdemeanor offense under Subtitle C, Title 7,
12 Transportation Code, or a similar misdemeanor traffic offense;

13 (2) if the applicant is a corporation:

14 (A) the name and address of the corporation's
15 agent for service of process in this state;

16 (B) the names and current addresses and telephone
17 numbers of its directors and of each stockholder who owns five
18 percent or more of the outstanding stock of the corporation;

19 (C) the date and place of birth, social security
20 number, and a physical description of each director and individual
21 stockholder of the corporation who owns five percent or more of the
22 outstanding stock of the corporation;

23 (D) the applicant's federal taxpayer
24 identification number, if any; and

25 (E) a statement by each director and individual
26 stockholder who owns five percent or more of the outstanding stock
27 of the corporation disclosing any arrest or conviction of that

1 director or stockholder for any felony or misdemeanor offense other
2 than a misdemeanor offense under Subtitle C, Title 7,
3 Transportation Code, or a similar misdemeanor traffic offense;

4 (3) if the applicant is an unincorporated business
5 association or any other legal entity:

6 (A) the names, current addresses and telephone
7 numbers, and percentage of ownership of each of its owners or
8 members;

9 (B) the date and place of birth, social security
10 number, and a physical description of each individual owner or
11 member of the association or entity;

12 (C) the applicant's federal taxpayer
13 identification number, if any; and

14 (D) a statement by each individual owner or
15 member disclosing any arrest or conviction of that owner or member
16 for any felony or misdemeanor offense other than a misdemeanor
17 offense under Subtitle C, Title 7, Transportation Code, or a
18 similar misdemeanor traffic offense;

19 (4) a detailed statement of the assets and liabilities
20 of the applicant; and

21 (5) information necessary to determine whether
22 grounds for denial of the license exist under Section 2004.062.

23 Sec. 2004.056. ADDITIONAL INFORMATION REQUIRED FOR SHIP
24 OPERATOR LICENSE. An application for a cruise ship operator
25 license must be accompanied by:

26 (1) complete registration information on each ship to
27 be used as a day cruise casino ship;

1 (2) plans for each ship to be used as a day cruise
2 casino ship, showing the proposed location of the casino space;

3 (3) a copy of each management or concession contract
4 pertaining to each proposed day cruise casino ship and the
5 information required under Section 2004.055(b) for each person
6 named in the contract; and

7 (4) a statement identifying the point of departure and
8 return for each cruise of not more than 24 hours' duration,
9 designating the municipality, cruise ship terminal, pier, or dock
10 at which each ship is regularly berthed for scheduled sailings.

11 Sec. 2004.057. ADDITIONAL INFORMATION REQUIRED FOR CASINO
12 OPERATOR LICENSE. An application for a casino operator license
13 must be accompanied by:

14 (1) complete registration information on the ship on
15 which the casino will be operated;

16 (2) plans for the ship to be used as a day cruise
17 casino ship, showing the proposed location of the casino space;

18 (3) a detailed description of all games and devices to
19 be used for gaming aboard the ship; and

20 (4) the methods for notifying the public that the
21 rules of each game and standards for percentages of wins and losses
22 are prominently displayed on the ship and in the casino.

23 Sec. 2004.058. LICENSE ISSUANCE AND RENEWAL. (a) The
24 executive director shall issue an appropriate license to an
25 applicant who meets the requirements of this chapter. The
26 executive director shall provide each license holder with an
27 appropriate license certificate or other credentials.

1 (b) A license issued under this chapter expires on the first
2 anniversary of the date of issuance. A license may be renewed
3 before expiration by submitting a renewal application in the form
4 prescribed by the executive director accompanied by the renewal
5 fee.

6 (c) An applicant or license holder shall notify the
7 executive director of any change in the information in the
8 applicant's or license holder's most recent application for a
9 license or renewal of a license not later than the 10th day after
10 the date of the change.

11 Sec. 2004.059. BACKGROUND INVESTIGATIONS. The Department
12 of Public Safety may conduct background investigations of an
13 applicant for a license under this chapter under an interagency
14 contract with the commission. The executive director or the
15 Department of Public Safety may require an applicant to supplement
16 an original application with additional information that is
17 reasonably related to the application process.

18 Sec. 2004.060. FINGERPRINTS. (a) An applicant for a
19 license under this chapter must submit to the executive director a
20 complete set of fingerprints of the individual applying for the
21 license or, if the applicant is not an individual, of any individual
22 required to be named in the application.

23 (b) The executive director shall forward the fingerprints
24 to the Department of Public Safety. Under an interagency contract
25 with the commission, the Department of Public Safety shall classify
26 the fingerprints and check them against its fingerprint files and
27 shall report to the executive director its findings concerning the

1 criminal record of the applicant or the lack of a record. A license
2 may not be issued until the report is made to the executive
3 director.

4 (c) The Department of Public Safety may maintain records of
5 fingerprints submitted under this section.

6 (d) The executive director may refuse to grant a license to
7 an applicant who fails to provide a complete set of fingerprints.

8 Sec. 2004.061. ACCESS TO CRIMINAL HISTORY RECORDS. (a) The
9 executive director may obtain any criminal history record
10 information that relates to an applicant for a license issued by the
11 executive director under this chapter and that is maintained by the
12 Department of Public Safety, the Federal Bureau of Investigation
13 Identification Division, or any other law enforcement agency.

14 (b) Criminal history record information received by the
15 executive director under this section from any law enforcement
16 agency that requires the information to be kept confidential as a
17 condition of release of the information is for the exclusive use of
18 the executive director, is privileged and confidential, and may not
19 be released or otherwise disclosed to any person or agency except in
20 a criminal proceeding, in a hearing conducted by the executive
21 director or a hearings officer appointed by the executive director,
22 on court order, or with the consent of the applicant.

23 Sec. 2004.062. DENIAL OF APPLICATION OR SUSPENSION OR
24 REVOCAION OF LICENSE. (a) The executive director shall deny an
25 application for a license or suspend or revoke a license if the
26 executive director finds that the applicant or license holder:

27 (1) is an individual who:

1 (A) has, in any jurisdiction, been convicted of
2 or placed on probation for a felony, criminal fraud, gambling or a
3 gambling-related offense, or a misdemeanor involving moral
4 turpitude; or

5 (B) is married to or related in the first degree
6 of consanguinity or affinity to an individual described by
7 Paragraph (A);

8 (2) is not an individual, and an individual described
9 in Subdivision (1):

10 (A) is an officer or director of the applicant or
11 license holder;

12 (B) owns more than 10 percent of the stock in the
13 applicant or license holder;

14 (C) holds an equitable interest greater than 10
15 percent in the applicant or license holder;

16 (D) is a creditor of the applicant or license
17 holder who holds more than 10 percent of the applicant's or license
18 holder's outstanding debt;

19 (E) shares or will share in the profits, other
20 than stock dividends, of the applicant or license holder; or

21 (F) participates in managing the affairs of the
22 applicant or license holder;

23 (3) has failed to disclose information that would, if
24 disclosed, establish that the applicant or license holder is
25 ineligible for a license under this section;

26 (4) has failed to provide to the executive director or
27 the Department of Public Safety supplementary information as

1 required by this chapter;

2 (5) has violated this chapter or a rule adopted under
3 this chapter; or

4 (6) has violated a federal or state penal gambling
5 statute.

6 (b) Before taking action under this section, the executive
7 director shall hold a hearing if requested by the applicant or
8 license holder.

9 [Sections 2004.063-2004.100 reserved for expansion]

10 SUBCHAPTER C. OFFENSES; ENFORCEMENT

11 Sec. 2004.101. ACTING WITHOUT LICENSE. (a) A person
12 commits an offense if the person violates Section 2004.051,
13 2004.052, or 2004.053.

14 (b) A person commits an offense if:

15 (1) the person employs another as a gaming employee;

16 (2) the person employed is required to hold a gaming
17 employee license issued under this chapter; and

18 (3) the person employed does not hold a gaming
19 employee license issued under this chapter.

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

21 Sec. 2004.102. FALSE STATEMENT; HINDERING ENTRY. (a) A
22 person commits an offense if the person intentionally, knowingly,
23 recklessly, or with criminal negligence makes a false, incorrect,
24 or deceptive material statement to another person who is conducting
25 an investigation or otherwise exercising discretion under this
26 chapter or a rule adopted under this chapter.

27 (b) A person commits an offense if the person intentionally,

1 knowingly, recklessly, or with criminal negligence refuses,
2 denies, or hinders entry to a person acting on behalf of the
3 executive director or other person authorized to board the ship
4 under Section 2001.105 who is boarding or inspecting or attempting
5 to board or inspect a ship under this chapter.

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

7 Sec. 2004.103. GAMING BY MINOR. (a) A person commits an
8 offense if the person intentionally, knowingly, recklessly, or with
9 criminal negligence permits a person younger than 21 years of age to
10 engage in gaming aboard a day cruise casino ship.

11 (b) A person younger than 21 years of age commits an offense
12 if the person intentionally or knowingly engages in gaming aboard a
13 day cruise casino ship.

14 (c) An offense under Subsection (a) is a state jail felony.
15 An offense under Subsection (b) is a Class C misdemeanor.

16 Sec. 2004.104. VENUE. In addition to the venue provided by
17 other law, an offense under this subchapter may be prosecuted in
18 Travis County, if:

19 (1) it cannot be determined in which county the
20 alleged offense occurred; or

21 (2) the offense is an offense under Section 2001.101.

22 Sec. 2004.105. ENFORCEMENT. (a) The executive director,
23 comptroller, and Department of Public Safety shall enforce this
24 chapter. The executive director, comptroller, or Department of
25 Public Safety may board and inspect a day cruise casino ship located
26 in this state, including the territorial waters of this state, to
27 ensure the ship is operated in compliance with state or other

1 applicable law. The executive director, comptroller, or Department
2 of Public Safety may charter a ship at the expense of a licensed day
3 cruise casino ship operator if the executive director, comptroller,
4 or Department of Public Safety considers it necessary to board the
5 ship at sea.

6 (b) A license holder may not refuse a request by the
7 executive director, comptroller, or Department of Public Safety to
8 board or inspect a ship licensed under this chapter.

9 (c) The executive director, comptroller, or Department of
10 Public Safety may initiate a complaint under this chapter with the
11 executive director.

12 SECTION 2. Section 47.01, Penal Code, is amended by adding
13 Subdivisions (2-a) and (2-b) to read as follows:

14 (2-a) "Coastline" means the line of mean low tide
15 along the portions of the Texas coast that are in direct contact
16 with the open Gulf of Mexico.

17 (2-b) "Day cruise casino ship" has the meaning
18 assigned by Section 2004.001, Occupations Code.

19 SECTION 3. Section 47.02, Penal Code, is amended by adding
20 Subsection (c-1) to read as follows:

21 (c-1) It is an affirmative defense to prosecution under this
22 section that:

23 (1) the conduct occurred aboard a day cruise casino
24 ship and the actor reasonably believed that:

25 (A) the owner of the ship and the person
26 operating the game, contest, or other gambling activity held
27 appropriate licenses under Chapter 2004, Occupations Code; and

1 (B) the ship was at least three nautical miles
2 gulfward from the coastline at the time the conduct occurred; or

3 (2) the conduct occurred aboard a day cruise casino
4 ship and the actor held an appropriate license under Chapter 2004,
5 Occupations Code, and reasonably believed that:

6 (A) the conduct complied with that chapter and
7 rules adopted under that chapter; and

8 (B) the ship was at least three nautical miles
9 gulfward from the coastline at the time the conduct occurred.

10 SECTION 4. Section 47.04, Penal Code, is amended by adding
11 Subsection (d) to read as follows:

12 (d) It is an affirmative defense to prosecution under this
13 section that the gambling place is aboard a day cruise casino ship
14 if:

15 (1) the operator of the ship and the operator of the
16 gambling place hold the appropriate license under Chapter 2004,
17 Occupations Code, if licenses are required by that chapter because
18 of gambling that may occur in the territorial waters of this state;

19 (2) the portion of the ship that is used as a gambling
20 place is locked or otherwise physically secured in a manner that
21 makes any gaming device inaccessible or inoperable at all times
22 while the ship is located less than three nautical miles gulfward
23 from the coastline; and

24 (3) the gambling place is not used for gambling or
25 other gaming purposes while the ship is located less than three
26 nautical miles gulfward from the coastline.

27 SECTION 5. Section 47.06, Penal Code, is amended by adding

1 Subsection (h) to read as follows:

2 (h) It is an affirmative defense to prosecution under
3 Subsections (a) and (c) that the device or equipment is aboard a day
4 cruise casino ship if:

5 (1) the operator of the ship and the operator of the
6 gambling place hold appropriate licenses under Chapter 2004,
7 Occupations Code, if licenses are required by that chapter because
8 of gambling that may occur in the territorial waters of this state;

9 (2) the portion of the ship in which the device or
10 equipment is located is locked or otherwise physically secured in a
11 manner that makes the gaming device inaccessible or inoperable at
12 all times while the ship is located less than three nautical miles
13 gulfward from the coastline; and

14 (3) the device or equipment is not used for gambling or
15 other gaming purposes while the ship is located less than three
16 nautical miles gulfward from the coastline.

17 SECTION 6. Not later than April 1, 2008, the Texas
18 Commission of Licensing and Regulation shall:

19 (1) develop the application forms required for
20 licensing and license renewal under Chapter 2004, Occupations Code,
21 as added by this Act;

22 (2) adopt the initial rules required to administer
23 Chapter 2004, Occupations Code, as added by this Act; and

24 (3) establish the procedures and qualifications for
25 the licenses as required by Chapter 2004, Occupations Code, as
26 added by this Act.

27 SECTION 7. (a) The change in law made by this Act applies

1 only to an offense committed on or after the effective date of this
2 Act. For purposes of this section, an offense is committed before
3 the effective date of this Act if any element of the offense occurs
4 before the effective date.

5 (b) An offense committed before the effective date of this
6 Act is covered by the law in effect when the offense was committed,
7 and the former law is continued in effect for that purpose.

8 SECTION 8. This Act takes effect January 1, 2008, but only
9 if the constitutional amendment proposed by the 80th Legislature,
10 Regular Session, 2007, authorizing this state to license persons to
11 conduct gaming, including electronic gaming, on cruise vessels
12 departing from or returning to a dock in this state, is approved by
13 the voters. If that amendment is not approved by the voters, this
14 Act has no effect.