

By: Brimer

S.B. No. 1478

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain nonprofit organizations to conduct
charitable poker tournaments; 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. CHARITABLE POKER GAMING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2004.001. DEFINITIONS. In this chapter:

(1) "Authorized organization" means a person
described by Sections 2001.101(a)(1)-(5) who is eligible to hold a
license to conduct poker gaming under this chapter.

(2) "Bet" means an agreement to win or lose chips or
tokens in a poker game.

(3) "Charitable poker tournament" means an event of
poker gaming held by a licensed qualified organization.

(4) "Charitable purposes" means a purpose described by
Section 2004.203.

(5) "Commission" means the Texas Lottery Commission.

(6) "Director" means the director of poker gaming
operations of the commission.

(7) "Executive director" means the executive director
of the commission.

(8) "Licensed organization" means an organization

1 that holds a license issued under this chapter to conduct poker
2 gaming.

3 (9) "Poker" means any of a variety of card games that
4 is played by players who are dealt cards from a poker card deck by a
5 nonplayer dealer and in which each player bets into a communal pot
6 and attempts to win the other players' bets. The term includes
7 draw, stud, low ball, or Texas Hold 'em poker, or any variety or
8 combination of those games.

9 (10) "Poker gaming" means the conduct of poker games
10 on which wagering is conducted.

11 (11) "Poker gaming equipment" means any equipment,
12 machine, or device, expendable supply of items, or any other items
13 or paraphernalia used to directly facilitate poker gaming. The
14 term includes playing cards, gaming chips or tokens, card shuffling
15 devices, and computerized systems or software for monitoring poker
16 gaming revenue.

17 (12) "Premises" means the area used by a licensed
18 organization to conduct poker gaming.

19 Sec. 2004.002. IMPUTED ACTIONS OF ORGANIZATION. For
20 purposes of this chapter, an organization performs an act if a
21 member, officer, or other agent of the organization performs the
22 act with the consent or authorization of the organization.

23 [Sections 2004.003-2004.050 reserved for expansion]

24 SUBCHAPTER B. COMMISSION POWERS AND DUTIES

25 Sec. 2004.051. SUPERVISION OF POKER GAMING BY LICENSED
26 ORGANIZATIONS; POKER DIVISION. (a) The commission has broad
27 authority and shall exercise strict control and close supervision

1 over all poker gaming conducted by licensed organizations in this
2 state to protect the public health and safety and to ensure that:

3 (1) the poker gaming is fairly conducted in compliance
4 with the law; and

5 (2) the proceeds derived from poker gaming by a
6 licensed organization are used for an authorized purpose.

7 (b) The commission shall establish a separate division to
8 administer this chapter.

9 Sec. 2004.052. DIRECTOR OF POKER GAMING. (a) The
10 commission shall employ a director of poker gaming.

11 (b) The director shall administer the poker gaming division
12 under the direction of the commission.

13 Sec. 2004.053. RULES; REGULATION OF POKER GAMING AND POKER
14 GAMING EQUIPMENT. (a) The commission shall adopt rules to
15 implement this chapter for the protection of the health, safety,
16 morals, and general welfare of this state.

17 (b) The commission may establish the hours during which a
18 licensed organization may conduct poker gaming and the types of
19 poker gaming that may be played during a poker tournament conducted
20 by a licensed organization.

21 (c) The commission by rule shall provide procedures for
22 approval of poker gaming equipment used in poker gaming conducted
23 by a licensed organization.

24 (d) A licensed organization may not use poker gaming
25 equipment unless the equipment has been approved by the commission
26 for that use.

27 Sec. 2004.054. OFFICERS AND INVESTIGATORS. The commission

1 may employ officers or investigators the commission considers
2 necessary to administer this chapter.

3 Sec. 2004.055. INVESTIGATIONS. The attorney general, the
4 district attorney for Travis County, or the district attorney,
5 criminal district attorney, or county attorney performing the
6 duties of district attorney for the county in which the violation or
7 alleged violation occurred may investigate a violation or alleged
8 violation of this chapter and of the penal laws of this state
9 relating to gambling by the commission or its employees, a licensed
10 organization, an employee of a licensed organization, or a player
11 in poker gaming conducted by a licensed organization.

12 Sec. 2004.056. ENFORCEMENT. (a) The executive director or
13 designated personnel of the commission may investigate violations
14 of this chapter and violations of the rules adopted under this
15 chapter.

16 (b) After conducting an investigation, the executive
17 director, a person designated by the commission, or any law
18 enforcement agency may file a complaint with the district attorney
19 of Travis County or with the appropriate prosecuting attorney of
20 the county in which a violation is alleged to have occurred.

21 Sec. 2004.057. WORKER REGISTRY. (a) The commission shall
22 establish and maintain a registry of persons who have submitted an
23 application to the commission to be included on the registry and who
24 are not disqualified under this section from being included on the
25 registry. A person other than an individual may not be included on
26 the registry.

27 (b) A person may not act as a manager, dealer, or cashier in

1 connection with poker gaming conducted by a licensed organization
2 unless the person is listed on the registry established under this
3 section.

4 (c) A licensed organization with the person's written
5 consent may apply to have the person's name included on the
6 registry.

7 (d) The commission must conduct a criminal history
8 background check of a person before including the person on the
9 registry. The commission shall refuse to add a person's name to or
10 shall remove a person's name from the registry if, after notice and
11 a hearing, the person is finally determined to have:

12 (1) been convicted of an offense listed under Section
13 2004.106(b);

14 (2) converted money that is or should have been in the
15 poker gaming account of a licensed organization;

16 (3) taken any action, individually or in concert with
17 another person, that affects the integrity of poker gaming
18 conducted by a licensed organization under this chapter; or

19 (4) acted as a manager, dealer, or cashier in
20 connection with poker gaming conducted by a licensed organization
21 without being listed on the registry established under this
22 section.

23 (e) The commission shall make the registry available to the
24 public by publishing it on the commission's Internet website. This
25 subsection does not require the commission to disclose information
26 that is confidential by law.

27 (f) A licensed organization shall report to the commission

the discovery of any conduct on the part of a person listed on the registry under this section or applying for a position that requires the person to be listed on the registry if there is substantial basis for believing that the conduct would constitute grounds for removal of the person's name from, or refusal to add the person's name to, the registry established by this section. A statement made in good faith to the commission or to an adjudicative body in connection with the report may not be the basis for an action for defamation of character.

(g) A person who has been finally determined to have taken action prohibited under Subsections (d)(2)-(4) may not be included on the registry established under this section and may not act as a manager, dealer, or cashier in connection with poker gaming conducted by a licensed organization before the first anniversary of the date of the determination. On expiration of the one-year period, the person may be included on the registry if the person is otherwise eligible to be included.

(h) The commission shall collect a reasonable fee from each person listed on the registry in an amount sufficient to cover the costs incurred in registering the person, conducting criminal background checks, and maintaining the registry under this section. A licensed organization may pay the fee on the person's behalf.

Sec. 2004.058. IDENTIFICATION CARD FOR REGISTERED PERSONS.

(a) The commission may require a person listed on the registry maintained under Section 2004.057 to wear an identification card while the person is performing a service for which registration is required by that section during the conduct of poker gaming by a

1 licensed organization. The commission by rule shall prescribe the
2 form and content of the card.

3 (b) The commission shall provide the identification card or
4 shall provide a form to be completed by a person that allows the
5 person to prepare the identification card. The commission shall
6 collect a reasonable charge to cover the cost of providing the card
7 or form.

8 Sec. 2004.059. ACCESS TO CRIMINAL HISTORY RECORD
9 INFORMATION. The commission is entitled to conduct an
10 investigation of and is entitled to obtain criminal history record
11 information maintained by the Department of Public Safety, the
12 Federal Bureau of Investigation Identification Division, or
13 another law enforcement agency to assist in the investigation of:

14 (1) an individual who provides or is seeking to
15 provide a service to a licensed organization for which the person is
16 required to be listed on the registry under Section 2004.057;

17 (2) a person required to be named in a license
18 application;

19 (3) an employee or member of a licensed organization,
20 if the employee is or will be directly involved in poker gaming
21 conducted by the organization; or

22 (4) if a person described by Subdivision (2) or (3) is
23 not an individual, an individual who:

24 (A) is an officer or director of the person;

25 (B) holds more than 10 percent of the stock in the
26 person;

27 (C) holds an equitable interest greater than 10

percent in the person;

(D) is a creditor of the person who holds more than 10 percent of the person's outstanding debt;

(E) is the owner or lessee of a business that the person conducts or through which the person will conduct poker gaming;

(F) shares or will share in the profits, other than stock dividends, of the person;

(G) participates in managing the affairs of the person; or

(H) is an employee of the person who is or will be involved in poker gaming.

[Sections 2004.060-2004.100 reserved for expansion]

SUBCHAPTER C. LICENSE TO CONDUCT POKER GAMING

Sec. 2004.101. LICENSE REQUIRED TO CONDUCT POKER GAMING.

An authorized organization may conduct poker gaming in this state if the organization holds a license to conduct poker gaming issued under this chapter.

Sec. 2004.102. LICENSE APPLICATION. (a) An organization seeking a license to conduct poker gaming under this chapter must file with the commission a verified application on a form prescribed by the commission.

(b) The application must include:

(1) the name and address of the applicant;

(2) the names and addresses of the applicant's officers;

(3) the address of the premises where and the dates and

1 times when the applicant intends to conduct charitable poker under
2 the license sought;

3 (4) the name and address of the lessor or other owner
4 of the premises, if the applicant intends to lease or otherwise use
5 premises that are not owned by the organization seeking the license
6 to conduct charitable poker;

7 (5) the capacity or potential capacity for public
8 assembly in the premises included under Subdivision (3);

9 (6) the amount of rent to be paid or other
10 consideration to be given, directly or indirectly, for the use of
11 premises described by Subdivision (4) for use in conducting poker
12 gaming;

13 (7) all other items of expense intended to be incurred
14 or paid in connection with conducting, promoting, and administering
15 poker gaming and the names and addresses of the persons to whom, and
16 the purposes for which, the expenses are to be paid;

17 (8) the specific purposes to which and the manner in
18 which the net proceeds of poker gaming are to be used;

19 (9) a statement that the net proceeds of poker gaming
20 will be used for one or more of the charitable purposes authorized
21 by this chapter;

22 (10) a designation of one or more active members of the
23 applicant organization under whose supervision the charitable
24 poker will be conducted, accompanied by a statement signed by each
25 designated member stating that the member will be responsible for
26 the conduct of poker gaming under the terms of the license and this
27 chapter; and

1 (11) sufficient facts relating to the applicant's
2 incorporation and organization to enable the commission to
3 determine whether the applicant is an authorized organization.

4 (c) A copy of an Internal Revenue Service letter that
5 approves an applicant's exemption from taxation under Section
6 501(c), Internal Revenue Code, is adequate evidence of the person's
7 tax-exempt status. A letter of good standing from a parent
8 organization that holds an exemption from taxation under Section
9 501(c), Internal Revenue Code, for both the parent organization and
10 its affiliate is adequate evidence of the affiliate organization's
11 tax-exempt status.

12 Sec. 2004.103. PERMIT TO CONDUCT POKER TOURNAMENT. (a) A
13 licensed organization may conduct poker gaming only at a poker
14 tournament for which the organization holds a permit under this
15 section.

16 (b) A licensed organization may apply for a permit to
17 conduct a poker tournament by filing with the commission an
18 application, on a form prescribed by the commission, accompanied by
19 a fee in an amount set by the commission.

20 (c) The application must include the name and address of
21 each person who will work at the proposed tournament in a position
22 for which the person is required to be listed on the registry under
23 Section 2004.057, the nature of the work to be performed, and a
24 statement as to whether the person has been convicted of a felony, a
25 gambling offense, criminal fraud, or a crime of moral turpitude.

26 (d) A tournament permit is valid only for the hours and on
27 the date specified by the permit.

1 (e) A licensed organization may not receive more than 12
2 tournament permits for a calendar year and not more than one
3 tournament permit for a calendar month.

4 (f) Subject to Section 2004.104, a licensed organization
5 may apply for all or any portion of the total number of tournament
6 permits that the organization may receive under this section in a
7 calendar year in one application without stating in the application
8 the days or hours for which the organization will use the permits.

9 Sec. 2004.104. VERIFICATION OF TOURNAMENT PERMIT. (a)
10 Before using a tournament permit issued under Section 2004.103(f),
11 an organization shall:

12 (1) notify the commission of the specific date and
13 hours of the poker tournament for which the license will be used;
14 and

15 (2) provide the commission with the information
16 required under Section 2004.103(c) that is relevant to the poker
17 tournament.

18 (b) If the commission receives the notification by noon of
19 the day before the day the tournament to which the permit applies
20 will be held, the commission shall verify receipt of the notice
21 before the end of the business day on which the notice is received.

22 (c) If the commission does not receive the notification by
23 noon of the day before the day the permit will be used, the
24 commission shall verify receipt of the notice before noon of the
25 business day that follows the day the commission received the
26 notice.

27 (d) A verification under this section may be delivered by

1 facsimile, e-mail, or any other means reasonably contemplated to
2 arrive before the time the tournament to which the permit applies
3 will be held.

4 Sec. 2004.105. LICENSE FEE. The commission shall set the
5 fee for a license to conduct poker gaming in an amount reasonable to
6 defray administrative costs. An applicant for a license or renewal
7 of a license shall pay the fee annually.

8 Sec. 2004.106. LICENSE ISSUANCE OR RENEWAL. (a) The
9 commission shall issue or renew a license to conduct poker gaming on
10 payment of the license fee provided by Section 2004.105 if the
11 commission determines that:

12 (1) the member or members of the applicant
13 organization designated in the application are active members of
14 the organization;

15 (2) the organization's charitable poker is to be
16 conducted in accordance with this chapter;

17 (3) the proceeds of the poker gaming are to be disposed
18 of in accordance with this chapter;

19 (4) the applicant has made and can demonstrate
20 significant progress toward the accomplishment of the purposes of
21 the organization during the 12 months preceding the date of
22 application for a license or license renewal;

23 (5) all persons who will conduct, promote, or
24 administer the proposed poker gaming are active members of the
25 applicant organization and all other persons who will assist in
26 conducting, promoting, or administering the proposed poker gaming
27 are persons authorized to do so under this chapter; and

1 (6) a person under whose supervision the poker gaming
2 will be conducted or who will provide a service to the organization
3 for which the person is required to be listed on the registry under
4 Section 2004.057 has not been convicted of a felony, a gambling
5 offense, criminal fraud, or a crime of moral turpitude if less than
6 10 years has elapsed since the termination of a sentence, parole,
7 mandatory supervision, or community supervision served for the
8 offense.

9 (b) The commission may not issue a license to conduct poker
10 gaming to an organization if an officer of the organization has been
11 convicted of a felony, criminal fraud, a gambling or
12 gambling-related offense, or a crime of moral turpitude if less
13 than 10 years has elapsed since the termination of a sentence,
14 parole, mandatory supervision, or community supervision served for
15 the offense.

16 Sec. 2004.107. FORM AND CONTENT OF TOURNAMENT PERMIT. A
17 permit to conduct a poker tournament must include:

18 (1) the name and address of the licensed organization
19 seeking the permit;

20 (2) the names and addresses of the member or members of
21 the licensed organization under whose supervision the poker
22 tournament will be conducted;

23 (3) an indication of the premises where and the time
24 when the poker tournament is to be conducted; and

25 (4) the specific purposes to which the net proceeds of
26 the poker tournament are to be devoted.

27 Sec. 2004.108. TRAINING PROGRAM. (a) Each person

1 designated under Section 2004.102(b)(10) shall complete eight
2 hours of training as provided by commission rule.

3 (b) A training program approved by the commission must
4 include training related to:

5 (1) administering and conducting a poker tournament;
6 and

7 (2) promoting a poker tournament.

8 (c) The commission by rule shall establish:

9 (1) the content of the training course;

10 (2) information concerning training to be reported to
11 the commission; and

12 (3) other training program requirements that the
13 commission determines to be necessary to promote the fair conduct
14 of poker tournaments and compliance with this chapter.

15 Sec. 2004.109. LICENSE AND PERMIT AMENDMENT. A licensed
16 organization may file an application with the commission to change:

17 (1) the premises at which the organization may conduct
18 poker gaming;

19 (2) the time the organization will conduct a poker
20 tournament; or

21 (3) the names of the persons required to be listed on
22 the registry under Section 2004.057.

23 Sec. 2004.110. ACCESS TO INTERNAL REVENUE SERVICE
24 INFORMATION; OFFENSE. (a) Under a contract between the
25 comptroller and the Internal Revenue Service, the commission may
26 obtain from the Internal Revenue Service information relating to a
27 person's qualification for a license under this chapter regarding

1 an authorized organization or an applicant for a license.

2 (b) Information received by the commission from the
3 Internal Revenue Service is confidential and may only be used as
4 provided by the contract under which the information was obtained.

5 (c) A person commits an offense if the person releases or
6 discloses information obtained under this section except on court
7 order. An offense under this subsection is a Class A misdemeanor.

8 (d) The comptroller shall adopt rules governing the custody
9 and use of information obtained under this section.

10 [Sections 2004.111-2004.150 reserved for expansion]

11 SUBCHAPTER D. DENIAL, REVOCATION, AND SUSPENSION OF LICENSE OR
12 PERMIT

13 Sec. 2004.151. DENIAL OF LICENSE OR PERMIT. The commission
14 may deny an application for a license or permit or renewal of a
15 license or permit issued under this chapter for a cause that would
16 allow or require the suspension or revocation of a license or permit
17 issued under this chapter or for a violation of this chapter or
18 rules adopted under this chapter.

19 Sec. 2004.152. HEARING. (a) A person whose application for
20 a license or permit is denied by the commission may make a written
21 request for a hearing. At the hearing the applicant is entitled to
22 be heard on the qualifications of the applicant and the merits of
23 the application.

24 (b) The burden of proof is on the applicant to establish by a
25 preponderance of the evidence its eligibility for the license or
26 permit.

27 Sec. 2004.153. SUSPENSION OR REVOCATION OF LICENSE OR

1 PERMIT. After a hearing, the commission may suspend or revoke a
2 license or permit issued under this chapter for:

3 (1) failure to comply with this chapter or a
4 commission rule; or

5 (2) a reason that would allow or require the
6 commission to refuse to issue or renew a license or permit of the
7 same type.

8 Sec. 2004.154. FINAL HEARING. (a) The commission shall
9 hold a final hearing on the suspension or revocation of a license or
10 permit, if requested by the license or permit holder, not later than
11 the 30th day after the date the commission receives written notice
12 of the request.

13 (b) A final hearing on suspension or revocation is governed
14 by the same rules as a hearing on any other suspension or revocation
15 under this chapter.

16 Sec. 2004.155. TEMPORARY SUSPENSION. (a) The commission
17 may temporarily suspend a license or permit issued under this
18 chapter for failure to comply with this chapter or a commission
19 rule.

20 (b) Before temporarily suspending a license or permit, the
21 director of poker gaming operations must follow any prehearing
22 rules adopted by the commission to determine if the license or
23 permit holder's continued operation may constitute an immediate
24 threat to the health, safety, morals, or welfare of the public.

25 (c) Chapter 2004, Government Code, does not apply to the
26 director of poker gaming operations or to the commission in the
27 enforcement and administration of a temporary suspension under this

1 section.

2 (d) The director shall provide notice of a temporary
3 suspension in the same manner as notice is provided under Section
4 2001.356.

5 Sec. 2004.156. JUDICIAL REVIEW. (a) An applicant for or
6 the holder of a license or permit issued or to be issued under this
7 chapter whose application has been denied, whose license or permit
8 has been revoked or suspended, or who is otherwise aggrieved by an
9 action of the commission relating to licensing or permitting under
10 this chapter may appeal the decision of the commission to a district
11 court in Travis County not later than the 30th day after the date on
12 which the commission's decision becomes final and appealable.

13 (b) Judicial review of a commission decision is under the
14 substantial evidence rule as provided by Chapter 2004, Government
15 Code.

16 [Sections 2004.157-2004.200 reserved for expansion]

17 SUBCHAPTER E. POKER GAMING ACCOUNTS AND USE OF PROCEEDS

18 Sec. 2004.201. ORGANIZATION POKER GAMING ACCOUNTS. (a) A
19 licensed organization shall establish and maintain one regular
20 checking account designated as the organization's poker gaming
21 account. The organization may also maintain an interest-bearing
22 savings account designated as the poker gaming savings account.

23 (b) A licensed organization shall deposit in the poker
24 gaming account all money derived from the conduct of poker gaming.

25 (c) A licensed organization may not commingle gross
26 receipts derived from the conduct of poker gaming with other money
27 of the organization.

1 Sec. 2004.202. AUTHORIZED USES OF POKER GAMING ACCOUNT. A
2 licensed organization may draw a check on its poker gaming account
3 only for:

4 (1) the payment of necessary and reasonable expenses
5 incurred and paid in connection with the conduct of poker gaming;

6 (2) the disbursement of net proceeds derived from the
7 conduct of poker gaming to charitable purposes; or

8 (3) the transfer of net proceeds derived from the
9 conduct of poker gaming to the organization's poker gaming savings
10 account pending a disbursement to a charitable purpose.

11 Sec. 2004.203. USE OF NET PROCEEDS FOR CHARITABLE PURPOSES.

12 (a) A licensed organization shall devote to the charitable
13 purposes of the organization its net proceeds of poker gaming.

14 (b) Except as otherwise provided by law, the net proceeds
15 derived from poker gaming are dedicated to the charitable purposes
16 of the organization only if directed to a cause, deed, or activity
17 that is consistent with the federal tax exemption the organization
18 obtained under Section 501, Internal Revenue Code, and under which
19 the organization qualifies as a nonprofit organization. If the
20 organization is not required to obtain a federal tax exemption
21 under Section 501, Internal Revenue Code, the organization's net
22 proceeds are dedicated to the charitable purposes of the
23 organization only if directed to a cause, deed, or activity that is
24 consistent with the purposes and objectives for which the
25 organization qualifies as an authorized organization.

26 Sec. 2004.204. USE OF PROCEEDS BY RECIPIENT. A person who
27 receives proceeds from a licensed organization for a charitable

purpose may not use the proceeds:

(1) to pay for services rendered or materials purchased in connection with the conduct of poker gaming by the donor organization; or

(2) for a purpose that would not constitute a charitable purpose if the activity were conducted by the donor organization.

Sec. 2004.205. USE OF PROCEEDS BY LICENSED ORGANIZATION. A licensed organization may not use the net proceeds from poker gaming directly or indirectly to:

(1) support or oppose a candidate or slate of candidates for public office;

(2) support or oppose a measure submitted to a vote of the people; or

(3) influence or attempt to influence legislation.

Sec. 2004.206. REQUIRED DISBURSEMENTS TO CHARITY. (a) Before the end of each calendar quarter, a licensed organization shall disburse for charitable purposes an amount not less than 35 percent of the organization's adjusted gross receipts from poker gaming from the preceding calendar quarter, less the amount of authorized expenses.

(b) If a licensed organization fails to meet the requirements of this section for a quarter, the commission in applying appropriate sanctions may consider whether, taking into account the amount required to be distributed during that quarter and the three preceding quarters and the charitable distributions for each of those quarters, the organization has distributed a

1 total amount sufficient to have met the 35 percent requirement for
2 that quarter and the three preceding quarters combined.

3 (c) A licensed organization that has ceased to conduct poker
4 gaming for any reason and that has unexpended poker gaming money
5 shall disburse the money for charitable purposes before the end of
6 the next calendar quarter after the calendar quarter in which the
7 organization ceases to conduct poker gaming.

8 Sec. 2004.207. ITEMS OF EXPENSE. An item of expense may not
9 be incurred or paid in connection with the conduct of poker gaming
10 except an expense that is reasonable or necessary to conduct the
11 poker gaming.

12 [Sections 2004.208-2004.250 reserved for expansion]

13 SUBCHAPTER F. ENFORCEMENT

14 Sec. 2004.251. OFFENSES; REVOCATION OF LICENSE OR PERMIT.

15 (a) A person commits an offense and the person's license or permit
16 is subject to revocation under this chapter if the person:

17 (1) makes a false statement or material omission in an
18 application for a license or permit under this chapter;

19 (2) fails to maintain records that fully and
20 accurately record each transaction connected with the conduct of
21 poker gaming or the leasing of premises to be used for poker gaming;

22 (3) falsifies or makes a false entry in a book or
23 record if the entry relates to poker gaming, the disposition of
24 poker gaming proceeds, or the gross receipts from the manufacture,
25 sale, or distribution of poker gaming supplies or equipment;

26 (4) diverts or pays a portion of the net proceeds of
27 poker gaming to a person except in furtherance of one or more of the

1 lawful purposes provided by this chapter; or

2 (5) violates this chapter or a term of a license or
3 permit issued under this chapter.

4 (b) An offense under Subsection (a)(2), (3), or (5) is a
5 Class C misdemeanor, unless it is shown on the trial of the offense
6 that the person has been convicted previously under this section,
7 in which event the offense is a Class B misdemeanor. An offense
8 under Subsection (a)(1) or (4) is a Class A misdemeanor.

9 (c) A person whose license or permit is revoked under this
10 section may not apply for another license or permit under this
11 chapter before the first anniversary of the date of revocation.

12 Sec. 2004.252. INSPECTION OF PREMISES. The commission, its
13 officers or agents, or a state, municipal, or county peace officer
14 may enter and inspect the contents of premises where poker gaming is
15 being conducted or intended to be conducted.

16 Sec. 2004.253. INJUNCTION; CIVIL PENALTY. (a) If the
17 commission or the attorney general has reason to believe that this
18 chapter has been or is about to be violated, the commission or
19 attorney general may seek injunctive relief to restrain the
20 violation.

21 (b) Venue for an action under this section is in Travis
22 County in addition to any other county in which venue is proper
23 under other law.

24 (c) If the court finds that this chapter has been violated
25 or is about to be violated, the court shall issue a temporary
26 restraining order and, after due notice and hearing, a temporary
27 injunction, and after a final trial, a permanent injunction to

1 restrain the violation.

2 (d) If the court finds that this chapter has been knowingly
3 violated, the court shall order all proceeds from the illegal poker
4 gaming to be forfeited to the state as a civil penalty.

5 Sec. 2004.254. REMEDIES NOT EXCLUSIVE. The commission may
6 suspend or revoke a license or permit under this chapter or impose
7 an administrative penalty, or both, depending on the severity of
8 the violation.

9 Sec. 2004.255. EXAMINATION OF RECORDS; DISCLOSURE OF
10 INFORMATION. (a) The attorney general may:

11 (1) examine or cause to be examined the records of an
12 organization that is or has been licensed to conduct poker gaming,
13 to the extent the organization's activities relate to poker gaming,
14 including the maintenance, control, and disposition of net proceeds
15 derived from poker gaming or from the use of its premises for poker
16 gaming; and

17 (2) examine a manager, officer, director, agent,
18 member, or employee of the organization under oath regarding:

19 (A) the conduct of poker gaming under a license;
20 (B) the use of premises for poker gaming or
21 related activities; or

22 (C) the disposition of proceeds derived from
23 poker gaming.

24 (b) The commission or a person authorized in writing by the
25 commission may examine the books, papers, records, equipment, and
26 premises of a license holder and may investigate the character of
27 the license holder's activities to verify the accuracy of a

1 statement or report made to the commission.

2 (c) The commission may set and charge to the license holder
3 a fee in an amount reasonably necessary to recover the cost of an
4 authorized investigation or audit authorized under this chapter.

5 (d) If the commission determines that a person is not
6 complying with this chapter, the commission shall notify the
7 attorney general.

8 Sec. 2004.256. ADMINISTRATIVE PENALTY. (a) The commission
9 may impose an administrative penalty against a person who violates
10 this chapter or a rule or order adopted by the commission under this
11 chapter in the same manner as the commission imposes an
12 administrative penalty under Subchapter M, Chapter 2001.

13 (b) The amount of the administrative penalty may not exceed
14 \$1,000 for each violation. Each day a violation continues or occurs
15 may be considered a separate violation for purposes of imposing a
16 penalty.

17 (c) In determining the amount of the penalty, the director
18 shall consider:

19 (1) the seriousness of the violation, including the
20 nature, circumstances, extent, and gravity of the prohibited acts;

21 (2) the history of previous violations;

22 (3) the amount necessary to deter future violations;

23 (4) efforts to correct the violation; and

24 (5) any other matter that justice may require.

25 (d) The notice, hearing, and appeal for an administrative
26 penalty assessed under this section shall be provided or conducted
27 in the same manner as notice, hearing, and appeals are provided or

1 conducted under Subchapter M, Chapter 2001.

2 SECTION 2. Section 411.108, Government Code, is amended by
3 adding Subsection (a-1) and amending Subsection (b) to read as
4 follows:

5 (a-1) The Texas Lottery Commission is entitled to obtain
6 from the department criminal history record information maintained
7 by the department that relates to a person who, under Chapter 2004,
8 Occupations Code, is:

9 (1) a person who is or is applying to be listed on the
10 registry under Section 2004.057, Occupations Code;

11 (2) a person required to be named in a license
12 application under Chapter 2004, Occupations Code;

13 (3) an employee or member of a licensed organization
14 under Chapter 2004, Occupations Code, if the employee is or will be
15 directly involved in poker gaming conducted by the organization; or

16 (4) if a person described in Subdivision (2) or (3) is
17 not an individual, an individual who:

18 (A) is an officer or director of the person;

19 (B) holds more than 10 percent of the stock in the
20 person;

21 (C) holds an equitable interest greater than 10
22 percent in the person;

23 (D) is a creditor of the person who holds more
24 than 10 percent of the person's outstanding debt;

25 (E) is the owner or lessee of a business that the
26 person conducts or through which the person will conduct poker
27 gaming;

1 (F) shares or will share in the profits, other
2 than stock dividends, of the person;

3 (G) participates in managing the affairs of the
4 person; or

5 (H) is an employee of the person who is or will be
6 involved in poker gaming.

7 (b) Criminal history record information obtained by the
8 commission under Subsection (a) or (a-1) may not be released or
9 disclosed to any person except on court order or as provided by
10 Subsection (c).

11 SECTION 3. Section 467.031, Government Code, is amended to
12 read as follows:

13 Sec. 467.031. DIVISIONS. The commission shall establish
14 separate divisions to oversee bingo, ~~[and]~~ the state lottery, and
15 poker gaming.

16 SECTION 4. Section 467.035(a), Government Code, is amended
17 to read as follows:

18 (a) The commission may not employ or continue to employ a
19 person who owns a financial interest in:

20 (1) a bingo commercial lessor, bingo distributor, or
21 bingo manufacturer; ~~[or]~~

22 (2) a lottery sales agency or a lottery operator; or

23 (3) the owner of premises leased to a licensed
24 organization for poker gaming under Chapter 2004, Occupations Code.

25 SECTION 5. Sections 467.101(a) and (c), Government Code,
26 are amended to read as follows:

27 (a) The commission has broad authority and shall exercise

1 strict control and close supervision over all activities authorized
2 and conducted in this state under:

3 (1) Chapter 2001, Occupations Code; [~~and~~]

4 (2) Chapter 466 of this code; and

5 (3) Chapter 2004, Occupations Code.

6 (c) The commission also has the powers and duties granted
7 under:

8 (1) Chapter 2001, Occupations Code; [~~and~~]

9 (2) Chapter 466 of this code; and

10 (3) Chapter 2004, Occupations Code.

11 SECTION 6. Section 47.02(c), Penal Code, is amended to read
12 as follows:

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

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

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

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

22 (4) was permitted under the Texas Racing Act (Article
23 179e, Vernon's Texas Civil Statutes); [~~or~~]

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

27 or

1 (6) was permitted under Chapter 2004, Occupations
2 Code.

3 SECTION 7. Section 47.06(f), Penal Code, is amended to read
4 as follows:

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

9 (1) to an organization licensed under Chapter 2004,
10 Occupations Code, to conduct poker gaming; or

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

13 SECTION 8. Section 47.09(a), Penal Code, is amended to read
14 as follows:

15 (a) It is a defense to prosecution under this chapter that
16 the conduct:

17 (1) was authorized under:

18 (A) Chapter 2001, Occupations Code;

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

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

22 (D) Chapter 2004, Occupations Code;

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

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

27 (A) Chapter 466, Government Code;

1 (B) the lottery division of the Texas Lottery
2 Commission;

3 (C) the Texas Lottery Commission; or

4 (D) the director of the lottery division of the
5 Texas Lottery Commission.

6 SECTION 9. The Texas Lottery Commission shall adopt rules
7 necessary to implement Chapter 2004, Occupations Code, as added by
8 this Act, as soon as practicable after the effective date of this
9 Act.

10 SECTION 10. This Act takes effect September 1, 2007.