

By: Menendez, et al.

H.B. No. 222

Substitute the following for H.B. No. 222:

By: Gutierrez

C.S.H.B. No. 222

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authorization and regulation of poker gaming and
3 the duties of the Texas Lottery Commission; providing civil and
4 criminal penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle A, Title 13, Occupations Code, is
7 amended by adding Chapter 2004 to read as follows:

8 CHAPTER 2004. POKER GAMING

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 2004.001. SHORT TITLE; APPLICABILITY. (a) This
11 chapter may be cited as the Poker Gaming Act of 2009.

12 (b) This chapter does not apply to the conduct of bingo,
13 charitable raffles, the state lottery, or video poker.

14 Sec. 2004.002. PUBLIC POLICY. (a) All poker gaming
15 conducted in this state and authorized by law shall be regulated and
16 licensed under this chapter unless state or federal law
17 specifically provides otherwise.

18 (b) The legislature finds and declares it to be the public
19 policy of this state that:

20 (1) poker is a game of skill and not a lottery or gift
21 enterprise prohibited by the Texas Constitution;

22 (2) unregulated poker gaming conducted by unlicensed
23 operators in public establishments is inimical to the public
24 health, safety, welfare, and good order. A person in this state may

1 not offer and has no right to offer the game of poker for profit
2 except as expressly permitted by the laws of this state;

3 (3) the development of regulated poker gaming in this
4 state will benefit the general welfare of the people of this state
5 by enhancing investment, development, and tourism in this state,
6 resulting in new jobs and additional revenue to this state;

7 (4) the conduct of regulated poker gaming by licensed
8 operators in authorized establishments will not harm the people of
9 this state;

10 (5) the regulation of poker gaming in this state is
11 important to ensure that poker gaming:

12 (A) is conducted honestly and competitively; and

13 (B) is free from criminal and other corruptive
14 elements;

15 (6) public confidence and trust can be maintained only
16 by strict regulation of all persons, locations, practices,
17 associations, and activities related to the conduct of poker gaming
18 and the poker gaming service industry;

19 (7) persons owning any interest in an operator
20 licensed to conduct poker gaming and in distributing materials and
21 specific equipment relating to poker gaming must be licensed and
22 controlled to protect the public health, safety, morals, good
23 order, and general welfare of the people of this state;

24 (8) certain operators and employees of establishments
25 authorized to conduct poker gaming and certain manufacturers and
26 distributors in the poker gaming service industry must be
27 regulated, licensed, and controlled to accomplish and promote these

1 public policies while protecting the public health, safety, morals,
2 good order, and general welfare of the people of this state; and

3 (9) it is the intent of this chapter, where possible,
4 to use the resources, goods, labor, and services of the people of
5 this state in the operation of poker gaming-related amenities to
6 the extent allowable by law.

7 Sec. 2004.003. DEFINITIONS. In this chapter:

8 (1) "Alcoholic beverage" has the meaning assigned by
9 Section 1.04, Alcoholic Beverage Code.

10 (2) "Badge" means a form of identification issued by
11 the commission to identify the holder of a license issued under this
12 chapter.

13 (3) "Bet" means an agreement to win or lose chips or
14 tokens, or an electronic facsimile of either, in a game of poker.

15 (4) "Bonus program" means a local promotion bonus
16 program or a statewide bad beat bonus program.

17 (5) "Cage manager" means an individual who creates and
18 maintains player accounts, provides cash-in and cash-out of chips
19 or player accounts, and determines and maintains the amount of
20 gross receipts tax due and payable to the comptroller by a licensed
21 operator on each day's gross receipts. The cage manager may be
22 assisted by an electronic method to perform any of these duties.

23 (6) "Charitable operator" means a person who holds a
24 charitable operator's license issued by the commission to conduct a
25 charitable poker tournament for a licensed nonprofit organization.

26 (7) "Charitable poker tournament" means a poker
27 tournament conducted by a charitable operator or commercial

1 operator to benefit a licensed nonprofit organization.

2 (8) "Collection fee" means the amount charged on the
3 communal pot for each poker hand played in accordance with Section
4 2004.462.

5 (9) "Commercial operator" means a person who holds a
6 commercial operator's license issued by the commission under this
7 chapter.

8 (10) "Commission" means the Texas Lottery Commission.

9 (11) "Communal pot" means the total amount of wagers
10 collectively made during one hand of poker.

11 (12) "Company" means a corporation, partnership,
12 limited partnership, trust, association, joint stock company,
13 joint venture, limited liability company, or other form of business
14 organization, but does not include a sole proprietorship or natural
15 person.

16 (13) "Creditor interest" means a right or claim of any
17 character against a person for the payment of money borrowed,
18 whether secured or unsecured, matured or unmatured, liquidated or
19 absolute, or fixed or contingent, and includes an obligation based
20 on the person's profits or receipts.

21 (14) "Dealer" means an individual who deals cards to
22 players at a poker gaming table on the premises of a licensed
23 operator.

24 (15) "Director" means the director of poker gaming
25 operations of the commission.

26 (16) "Distilled spirits" has the meaning assigned by
27 Section 1.04, Alcoholic Beverage Code.

1 (17) "Electronic poker table" means a poker gaming
2 table, including its components, that provides multiple player
3 positions and allows players to play against other players in the
4 same poker game using electronic representations of cards and
5 chips.

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

16 (19) "Executive director" means the executive
17 director of the commission.

18 (20) "Fidelity bond" means insurance against a
19 licensed operator's financial loss resulting from theft or
20 embezzlement by an employee.

21 (21) "Gross receipts" means the total amount
22 accumulated from:

23 (A) the collection fees charged from the communal
24 pot from each poker hand; and

25 (B) the promotion bonus fees charged from the
26 communal pot from each poker hand played.

27 (22) "Licensed nonprofit organization" means a

1 nonprofit organization that holds a license issued by the
2 commission authorizing the organization to benefit from charitable
3 poker tournaments conducted on its behalf.

4 (23) "Licensed operator" means a charitable operator
5 or a commercial operator.

6 (24) "Manufacturer" means:

7 (A) a person who assembles from raw materials or
8 subparts a completed piece of poker gaming equipment or supplies
9 for use in poker gaming in this state; or

10 (B) a person who converts, modifies, adds to, or
11 removes parts from any poker gaming equipment, item, or assembly to
12 further its promotion or sale for or use in poker gaming in this
13 state.

14 (25) "Net proceeds" means, in relation to the gross
15 receipts from a charitable poker tournament, the amount remaining
16 after deducting the reasonable amounts necessarily and actually
17 expended by a licensed operator to conduct the charitable poker
18 tournament.

19 (26) "Nonprofit organization" means an unincorporated
20 association or a nonprofit corporation formed under the Texas
21 Nonprofit Corporation Law, as described by Section 1.008, Business
22 Organizations Code, that:

23 (A) does not distribute any of its income to its
24 members, officers, or governing body, other than as reasonable
25 compensation for services; and

26 (B) has tax-exempt status under Section
27 501(c)(3), Internal Revenue Code of 1986.

1 (27) "Pari-mutuel license holder" means a person
2 licensed to conduct wagering on a greyhound race or a horse race
3 under the Texas Racing Act (Article 179e, Vernon's Texas Civil
4 Statutes).

5 (28) "Player" means a patron who participates in poker
6 gaming on the premises of a licensed operator.

7 (29) "Poker" or "poker game" means a card game in which
8 players place a bet based on the highest or lowest ranking hand of
9 cards held or combination of highest and lowest cards held. For
10 purposes of this chapter, the term includes the game known as Texas
11 Hold'em or any variation or combination of Texas Hold'em, but does
12 not include blackjack, hearts, pinochle, rummy, Internet poker,
13 video poker, or Asian card games such as Pai Gow.

14 (30) "Poker card deck" means a set of 52 cards with 13
15 values and with each card value represented once in each of four
16 suits: spades, hearts, diamonds, and clubs. The term includes
17 actual cards or an electronic facsimile of cards.

18 (31) "Poker gaming" means the conduct of poker games.

19 (32) "Poker gaming equipment" means any equipment or
20 mechanical, electromechanical, or electronic contrivance,
21 component, machine, or device, expendable supply, or other
22 paraphernalia used in conjunction with poker gaming, including a
23 computerized system or software for enabling poker gaming or
24 monitoring poker gaming revenue or a device for weighing or
25 counting money. The term includes playing cards, gaming chips or
26 tokens, or a card shuffling device, or an electronic version of any
27 of those items, including a poker game.

1 (33) "Premises" means the area subject to the direct
2 control of and actual use by a licensed operator to conduct poker
3 gaming. The term includes a location or place.

4 (34) "Principal manager" means a person who, in
5 accordance with commission rules, holds or exercises managerial,
6 supervisory, or policy-making authority over the management or
7 operation of a poker gaming activity that, in the commission's
8 judgment, warrants employee licensing as a principal manager for
9 the protection of the public interest. The term includes a key
10 executive of a holder of a license under this chapter that is a
11 company and each person controlling the holder that is a company.

12 (35) "Promotion bonus fee" means the amount charged
13 from the communal pot for bonus programs from each poker hand played
14 in accordance with Section 2004.461.

15 (36) "Wager" means a bet.

16 Sec. 2004.004. STATUS OF POKER AS CLASS II GAMING. Poker
17 gaming authorized under this chapter is considered Class II gaming
18 under the Indian Gaming Regulatory Act (Pub. L. No. 100-497).

19 [Sections 2004.005-2004.050 reserved for expansion]

20 SUBCHAPTER B. COMMISSION POWERS AND DUTIES

21 Sec. 2004.051. CONTROL AND SUPERVISION OF POKER GAMING;
22 POKER DIVISION. (a) The commission shall administer this chapter.

23 (b) The commission has broad authority and shall exercise
24 strict control and close supervision over all poker gaming
25 conducted in this state to ensure that poker gaming is fairly
26 conducted.

27 (c) The commission shall execute its authority through a

1 poker gaming division established by the commission to administer
2 this chapter.

3 Sec. 2004.052. DIRECTOR OF POKER GAMING OPERATIONS. (a)
4 The commission shall employ a director of poker gaming operations.

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

7 Sec. 2004.053. OFFICERS AND INVESTIGATORS. The commission
8 may employ officers or investigators the commission considers
9 necessary to administer this chapter.

10 Sec. 2004.054. RULEMAKING AUTHORITY. The commission shall
11 adopt rules as necessary to enforce and administer this chapter.

12 Sec. 2004.055. APPROVAL OF POKER GAMING EQUIPMENT. (a) The
13 commission by rule shall provide procedures for the approval of
14 poker gaming equipment for use in poker gaming in this state.

15 (b) The commission may approve an electronic poker table
16 only if the table:

17 (1) is certified by an independent gaming equipment
18 testing lab recognized by the commission as meeting the standards
19 prescribed by Section 2004.454;

20 (2) is commercially available;

21 (3) is in use in other commercial gaming operations;

22 and

23 (4) is not a video lottery terminal or an interactive
24 electronic device that is capable of displaying an
25 electromechanically or electronically simulated game the outcome
26 of which is determined solely by chance based on a
27 computer-generated random selection of winning combinations of

1 symbols or numbers displaying symbols that appear to roll on drums
2 to simulate a classic casino slot machine or themes of other card
3 games and keno.

4 (c) The holder of a license issued under this chapter may
5 not use, sell, or distribute poker gaming equipment that has not
6 been approved by the commission.

7 Sec. 2004.056. PUBLIC INFORMATION. (a) The commission
8 shall provide to any person on request a printed copy of this
9 chapter and the rules applicable to the enforcement of this
10 chapter.

11 (b) The commission may charge a reasonable fee for a copy
12 provided under this section.

13 Sec. 2004.057. ADVISORY OPINIONS. (a) A person may request
14 from the commission an advisory opinion regarding compliance with
15 this chapter and commission rules.

16 (b) The commission shall respond to a request under
17 Subsection (a) not later than the 60th day after the date a request
18 is received, unless the commission determines that the request does
19 not contain sufficient facts to provide an answer on which the
20 requestor may rely. The commission shall request any additional
21 information required from the requestor not later than the 10th
22 business day after the date the request is received. If the
23 commission requests additional information, the commission shall
24 respond to the request not later than the 60th day after the date
25 additional information is received pursuant to the request for
26 additional information.

27 (c) A person who requests an advisory opinion under

1 Subsection (a) may act in reliance on the opinion in the conduct of
2 any activity under any license issued under this chapter if the
3 conduct is substantially consistent with the opinion and the facts
4 stated in the request.

5 (d) An advisory opinion issued under this section is not a
6 rule under Subchapter B, Chapter 2001, Government Code, and the
7 rulemaking requirements of that subchapter do not apply to a
8 request for an advisory opinion or any advisory opinion issued by
9 the commission under this chapter.

10 (e) Nothing in this section precludes the commission from
11 requesting an attorney general's opinion under Section 402.042,
12 Government Code. In the event the commission requests an attorney
13 general's opinion on a matter that is the subject of an advisory
14 opinion request under this section, the deadlines established under
15 Subsection (b) are tolled until the 30th day following the date the
16 attorney general's opinion is issued.

17 Sec. 2004.058. GENERAL LICENSE PROHIBITION. A person
18 described by Section 243.007(a), Local Government Code, who holds a
19 license or other permit issued by a municipality or county as
20 provided by that section may not:

21 (1) conduct poker gaming in this state; or

22 (2) hold a license issued under this chapter.

23 [Sections 2004.059-2004.100 reserved for expansion]

24 SUBCHAPTER C. LICENSE TO CONDUCT POKER GAMING

25 Sec. 2004.101. OPERATOR'S LICENSE. (a) A person may not
26 conduct poker gaming in the state unless the person holds a
27 charitable operator's license or a commercial operator's license

1 issued by the commission. Poker gaming conducted by a commercial
2 operator, including a charitable poker tournament conducted by the
3 operator to benefit a licensed nonprofit organization, may be
4 conducted only on premises operating in accordance with the
5 operator's license. Poker gaming conducted by a charitable
6 operator may be conducted only at a location specified in a permit
7 authorizing the conduct of a charitable poker tournament.

8 (b) Subsection (a) does not prohibit a person from playing a
9 poker game authorized by other state law.

10 (c) A person may not own an equity interest in a location in
11 this state on which poker gaming is conducted by a commercial
12 operator and for which a commercial operator's license is not in
13 effect.

14 (d) A separate commercial operator's license must be
15 obtained for each location at which poker gaming is conducted by a
16 commercial operator. If the commercial operator is an Indian tribe
17 that holds a license issued under Section 2004.103(a)(1)(B), the
18 location at which poker gaming is conducted under the license must
19 be on the tribe's reservation in this state.

20 (e) The commission by rule shall prescribe the maximum
21 number of poker gaming tables a commercial operator may operate at a
22 single location licensed by the commission.

23 (f) A separate permit must be obtained for each charitable
24 poker tournament conducted by a licensed operator.

25 Sec. 2004.102. COMMERCIAL OPERATOR'S LICENSE APPLICATION.

26 (a) In accordance with commission rules, an applicant for a
27 commercial operator's license shall file with the commission an

1 application that contains the information identified in
2 Subsections (b) and (c), and any additional information the
3 commission requires to determine the suitability and eligibility of
4 the applicant to conduct poker gaming in this state.

5 (b) The application must include:

6 (1) the name and address of the applicant;

7 (2) the names and addresses of the officers of a
8 company applicant;

9 (3) the name and address of the person that owns the
10 premises where the applicant intends to conduct poker gaming under
11 the license sought;

12 (4) the address of the premises where the applicant
13 intends to conduct poker gaming under the license sought;

14 (5) the name and address of the lessor of the building
15 in which the premises are located, if the applicant leases or will
16 lease the premises at which the applicant intends to conduct poker
17 gaming;

18 (6) for a pari-mutuel license holder applicant, the
19 number of poker tables requested for the holder's racetrack,
20 including the number of tables that are electronic poker tables;
21 and

22 (7) a financial statement certified by a certified
23 public accountant demonstrating that the applicant holds gross
24 capital assets, including land and buildings, of at least \$1
25 million.

26 (c) An applicant, other than an applicant described by
27 Section 2004.103(a)(1)(B), must attach to the application a copy

1 of:

2 (1) each license or permit the applicant holds issued
3 by the Texas Alcoholic Beverage Commission authorizing the
4 applicant to sell or serve distilled spirits for on-premises
5 consumption; or

6 (2) the person's pari-mutuel license.

7 Sec. 2004.103. MANDATORY ISSUANCE OF COMMERCIAL OPERATOR'S
8 LICENSE. (a) The commission shall issue a commercial operator's
9 license to an applicant that:

10 (1) meets one of the following requirements:

11 (A) holds:

12 (i) an alcoholic beverage license or permit
13 issued by the Texas Alcoholic Beverage Commission authorizing the
14 applicant to sell or serve distilled spirits for on-premises
15 consumption; or

16 (ii) a pari-mutuel license issued by the
17 Texas Racing Commission authorizing the applicant to conduct
18 wagering on a greyhound race or a horse race; or

19 (B) is a federally recognized Indian tribe that
20 has a reservation in this state;

21 (2) files the application in accordance with this
22 chapter;

23 (3) signs the application;

24 (4) pays the required application fee; and

25 (5) meets any additional requirements prescribed by
26 the commission.

27 (b) A person may not apply for a license under Subsection

1 (a)(1)(A)(i) unless for at least one of the three months preceding
2 the date of the application the person paid mixed beverage taxes
3 under Subchapter B, Chapter 183, Tax Code, on the gross receipts for
4 the premises where the person intends to conduct poker gaming in an
5 amount of at least:

6 (1) \$7,500 for premises located in a municipality with
7 a population of at least 100,000; or

8 (2) \$2,500 for premises to which Subdivision (1) does
9 not apply.

10 (c) Subsection (b) does not prohibit a person from applying
11 for and receiving a commercial operator's license if the person is
12 otherwise eligible for the license under Subsection (a)(1)(A)(ii)
13 or Subsection (a)(1)(B).

14 (d) The commission shall revoke a commercial operator's
15 license issued under Subsection (a)(1)(A) if the operator's
16 alcoholic beverage license or permit or pari-mutuel license, as
17 applicable, expires or is canceled or revoked. The Texas Alcoholic
18 Beverage Commission shall notify the commission of any expiration
19 or cancellation of an alcoholic beverage license or permit held by a
20 licensed operator. The Texas Racing Commission shall notify the
21 commission of any expiration or revocation of a pari-mutuel license
22 held by a licensed operator.

23 (e) If video surveillance is required under Section
24 2004.469, the commission may not issue a commercial operator's
25 license to an applicant unless the applicant provides the video
26 surveillance equipment required by that section.

27 (f) The commission may adopt rules providing for a person's

1 continued suitability to hold a commercial operator's license.

2 (g) The opportunity to hold a commercial operator's license
3 is a revocable privilege and not a right or property under the
4 United States Constitution or the Texas Constitution. An applicant
5 for or holder of a commercial operator's license does not have a
6 vested interest or right in a license granted under this chapter.

7 Sec. 2004.104. CHARITABLE OPERATOR'S LICENSE. (a) In
8 accordance with commission rules, an applicant for a charitable
9 operator's license shall file with the commission an application
10 that contains the information identified in Subsection (b) and any
11 additional information the commission requires to determine the
12 suitability and eligibility of the applicant to conduct poker
13 gaming in this state.

14 (b) The application must include:

15 (1) the name and address of the applicant;

16 (2) the names and addresses of the officers of an
17 applicant;

18 (3) the name and address of the person that owns the
19 premises where the applicant intends to conduct charitable poker
20 gaming under the license sought;

21 (4) the address of the premises where the applicant
22 intends to conduct charitable poker gaming under the license
23 sought; and

24 (5) the name and address of the lessor of the building
25 in which the premises are located, if the applicant leases or will
26 lease the premises at which the applicant intends to conduct
27 charitable poker gaming.

1 Sec. 2004.105. DETERMINATION OF SUITABILITY TO HOLD
2 CHARITABLE OPERATOR'S LICENSE. (a) The commission shall determine
3 the suitability of an applicant for or holder of a charitable
4 operator's license based on suitability criteria prescribed by the
5 commission. The commission shall adopt the rules and standards
6 necessary to ensure that an applicant for a charitable operator's
7 license or a charitable operator uses the revenue from a charitable
8 poker tournament for bona fide charitable purposes.

9 (b) The burden of proving suitability to receive or hold a
10 charitable operator's license is on the applicant or license
11 holder.

12 (c) The commission shall issue a charitable operator's
13 license to an eligible applicant if the commission determines that
14 the applicant is suitable under the commission's criteria.

15 (d) The commission may adopt rules providing for a person's
16 continued suitability to hold a charitable operator's license and
17 providing for the imposition of sanctions and penalties against a
18 person who does not comply with this chapter or rules adopted under
19 this chapter.

20 (e) The opportunity to hold a charitable operator's license
21 is a revocable privilege and not a right or property under the
22 United States Constitution or the Texas Constitution. An applicant
23 for or holder of a charitable operator's license does not have a
24 vested interest or right in a license granted under this chapter.

25 Sec. 2004.106. NONTRANSFERABILITY. A commercial
26 operator's license applies only to the specific premises location
27 identified in the license and is not transferable to another person

1 or location.

2 Sec. 2004.107. REGISTRATION OF INTEREST IN OPERATOR. (a)
3 Except as provided by Subsection (b), a person who directly or
4 indirectly owns an equity interest or creditor interest in an
5 applicant for or holder of a commercial operator's license shall:

6 (1) register and qualify with the commission under
7 commission rules; and

8 (2) provide information the commission finds
9 necessary to determine the suitability and eligibility of the
10 person to retain the interest.

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

13 (1) an employee of a licensed operator who is required
14 to apply for an employee's license under Subchapter E;

15 (2) an institutional investor; or

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

18 (c) The commission shall adopt rules to implement this
19 section, including rules establishing procedures for registration
20 application, qualification, and renewal. A registration filed
21 under this section must be accompanied by the required application
22 fee.

23 [Sections 2004.108-2004.150 reserved for expansion]

24 SUBCHAPTER D. NONPROFIT ORGANIZATION LICENSE; CHARITABLE POKER
25 TOURNAMENT PERMIT

26 Sec. 2004.151. LICENSE REQUIRED. (a) A licensed operator
27 may not conduct a charitable poker tournament to benefit a

1 nonprofit organization unless the organization holds a license
2 issued under this subchapter.

3 (b) A licensed operator shall ensure that each nonprofit
4 organization receiving any portion of the net proceeds of a
5 charitable poker tournament conducted by the operator holds a
6 license issued by the commission under this subchapter.

7 Sec. 2004.152. LICENSE APPLICATION. (a) An applicant for a
8 nonprofit organization license must:

9 (1) submit an application to the commission on the
10 form prescribed by the commission and in accordance with commission
11 rules;

12 (2) present sufficient facts relating to the
13 applicant's incorporation and organization to enable the
14 commission to determine whether the applicant may be licensed under
15 this subchapter; and

16 (3) submit the required application fee.

17 (b) An applicant for a nonprofit organization license
18 shall:

19 (1) sign the application; and

20 (2) attest under penalties of perjury that the
21 information contained in the application is true, correct, and
22 complete.

23 (c) The following are adequate evidence of an applicant's
24 tax-exempt status:

25 (1) a copy of an Internal Revenue Service letter that
26 approves the applicant's exemption from taxation under Section
27 501(c)(3), Internal Revenue Code of 1986; or

1 (2) a letter of good standing from a parent
2 organization of the applicant that holds an exemption from taxation
3 under Section 501(c)(3), Internal Revenue Code of 1986, for both
4 the parent organization and the applicant as its affiliate.

5 (d) Not later than the 30th day after the date the
6 commission grants an application for a nonprofit organization
7 license, the commission shall issue the license to the applicant.

8 Sec. 2004.153. DETERMINATION OF SUITABILITY OF NONPROFIT
9 ORGANIZATION LICENSE APPLICANT OR HOLDER. (a) The commission
10 shall determine the suitability of an applicant for or holder of a
11 nonprofit organization license based on suitability criteria
12 prescribed by the commission to ensure that the applicant is a bona
13 fide nonprofit organization and that revenue from a charitable
14 poker tournament will be used for bona fide charitable purposes.

15 (b) The burden of proving suitability to receive or hold a
16 license is on the applicant or license holder.

17 (c) The commission shall issue a nonprofit organization
18 license to an eligible applicant if the commission determines that
19 the applicant is suitable under the commission's criteria.

20 (d) The commission may adopt rules providing for a nonprofit
21 organization's continued suitability to hold a license under this
22 chapter and providing for the imposition of sanctions and penalties
23 against an organization that does not comply with this chapter or
24 rules adopted under this chapter.

25 (e) The opportunity to hold a nonprofit organization
26 license is a revocable privilege and not a right or property under
27 the United States Constitution or the Texas Constitution. An

1 applicant for or holder of a nonprofit organization license does
2 not have a vested interest or right in a license granted under this
3 chapter.

4 Sec. 2004.154. PERMIT FOR CHARITABLE POKER TOURNAMENT. (a)
5 A licensed operator may conduct a charitable poker tournament only
6 for which the operator holds a permit issued under this section.

7 (b) A licensed operator may apply for a permit to conduct a
8 charitable poker tournament by filing an application with the
9 commission on a form prescribed by the commission accompanied by
10 the required fee not less than 30 days before the date of the
11 charitable poker tournament.

12 (c) The application must include the location, date, and
13 hours of the charitable poker tournament and the name of the
14 licensed nonprofit organization the tournament will benefit.

15 (d) The application for a charitable poker tournament
16 permit must:

17 (1) be submitted in accordance with commission rules;

18 (2) include the address and dimensions of the facility
19 where the tournament will occur;

20 (3) include the date and hours of the tournament;

21 (4) include the name of each licensed nonprofit
22 organization the tournament will benefit; and

23 (5) include the number of poker tables requested for
24 the tournament, including the number of electronic poker tables.

25 (e) An applicant for a charitable poker tournament permit
26 shall:

27 (1) sign the application; and

1 (2) attest under penalties of perjury that the
2 information contained in the application is true, correct, and
3 complete.

4 (f) Not later than the 10th day after the date the
5 commission grants an application for a permit, the commission shall
6 deliver the permit to the licensed operator. The permit must state
7 the location, date, hours, and number of tables authorized for the
8 charitable poker tournament. The operator must prominently display
9 the permit at the charitable poker tournament.

10 (g) The permit is valid only for the hours, date, and
11 location specified by the permit.

12 (h) A licensed operator may only operate the number of poker
13 gaming tables specified in the permit at the charitable poker
14 tournament.

15 Sec. 2004.155. CHARITABLE POKER TOURNAMENT; NET PROCEEDS.

16 (a) A licensed operator may conduct a charitable poker tournament
17 for the benefit of a licensed nonprofit organization.

18 (b) A licensed operator shall pay to a licensed nonprofit
19 organization all net proceeds from a charitable poker tournament
20 not later than the 30th day after the date of the tournament. The
21 expenses of conducting the tournament deducted by a licensed
22 operator may not exceed 30 percent of gross receipts. The expenses
23 must be reasonable or necessary to conduct the poker gaming and may
24 include expenses for:

25 (1) advertising, including the cost of printing poker
26 gaming gift certificates;

27 (2) security;

1 (3) repairs to equipment and the premises where the
2 tournament is conducted;

3 (4) poker gaming equipment and supplies used during
4 the tournament;

5 (5) prizes;

6 (6) taxes in accordance with Subchapter I;

7 (7) rental or mortgage and insurance expenses;

8 (8) bookkeeping, legal, or accounting services
9 related to the tournament;

10 (9) fees for dealers, cashiers, janitorial services,
11 and utility supplies and services;

12 (10) the permit fee; and

13 (11) debit card transaction fees.

14 (c) A licensed nonprofit organization must use the proceeds
15 from the charitable poker tournament for its charitable purposes.

16 Sec. 2004.156. DENIAL OR REVOCATION OF NONPROFIT
17 ORGANIZATION LICENSE. (a) The commission may deny an application
18 for or suspend, limit, or revoke a nonprofit organization's license
19 for any reasonable cause.

20 (b) If the commission determines that it has reasonable
21 grounds to believe that a licensed nonprofit organization might be
22 unsuitable to continue to hold the license, for protection of the
23 public health, safety, morals, and general welfare of the people of
24 this state and of the reputation of this state's poker gaming
25 industry, the commission shall conduct an investigation and hearing
26 in accordance with Subchapter K and, based on the commission's
27 determination, may deny, suspend, limit, or revoke the license.

1 (c) A nonprofit organization that has had a license
2 suspended or revoked may not receive, directly or indirectly, any
3 proceeds, compensation, consideration, or payment of any kind
4 relating to the conduct of a charitable poker tournament, other
5 than a tournament that took place before the suspension or
6 revocation.

7 [Sections 2004.157-2004.200 reserved for expansion]

8 SUBCHAPTER E. EMPLOYEE'S LICENSES

9 Sec. 2004.201. DEALER'S LICENSE REQUIRED. A person may not
10 act as a dealer unless the person holds a dealer's license.

11 Sec. 2004.202. ISSUANCE OF DEALER'S LICENSE. (a) A
12 licensed operator shall ensure that each dealer employed by the
13 operator holds a dealer's license issued by the commission.

14 (b) A dealer's license application must:

15 (1) be submitted in accordance with commission rules;
16 (2) contain the information the commission requires to
17 determine the applicant's suitability and eligibility to act as a
18 dealer; and

19 (3) be accompanied by the required application fee.

20 (c) An applicant for a dealer's license shall:

21 (1) sign the application; and
22 (2) attest under penalties of perjury that the
23 information contained in the application is true, correct, and
24 complete.

25 (d) The commission shall conduct a criminal background
26 check on each applicant for a dealer's license.

27 (e) Not later than the 60th day after the date the

1 commission grants an application for a dealer's license, the
2 commission shall issue a dealer's badge to the applicant. A
3 licensed dealer must prominently display on the dealer's person the
4 badge issued by the commission at all times when the dealer is on
5 the premises of a licensed operator as an employee of the licensed
6 operator.

7 Sec. 2004.203. RESIDENCY. A person is eligible to apply for
8 and hold a dealer's license without regard to the applicant's
9 residency in this state.

10 Sec. 2004.204. DETERMINATION OF SUITABILITY OF DEALER'S
11 LICENSE APPLICANT OR HOLDER. (a) The commission shall determine
12 the suitability of an applicant for or holder of a dealer's license
13 based on suitability criteria prescribed by the commission to
14 ensure that the applicant or dealer:

15 (1) has not been convicted of a felony;

16 (2) has not had a complaint alleging physical
17 intimidation filed against the applicant or dealer with a law
18 enforcement authority;

19 (3) has sufficient business probity, competence, and
20 training or experience in the poker gaming industry to act as a
21 dealer; and

22 (4) is otherwise qualified to be licensed.

23 (b) The burden of proving suitability to receive or hold a
24 dealer's license is on the applicant or license holder.

25 Sec. 2004.205. DENIAL OR REVOCATION OF DEALER'S LICENSE.

26 (a) The commission may deny an application for or suspend, limit,
27 or revoke a dealer's license for any reasonable cause.

1 (b) If the commission determines that it has reasonable
2 grounds to believe that a licensed dealer might be unsuitable to
3 continue to hold the license, for protection of the public health,
4 safety, morals, and general welfare of the people of this state and
5 of the reputation of this state's poker gaming industry, the
6 commission shall conduct an investigation and hearing as provided
7 by Subchapter K and, based on the commission's determination, may
8 deny, suspend, limit, or revoke a dealer's license.

9 (c) On the suspension or revocation of a dealer's license,
10 the license holder may not provide services in any capacity
11 requiring a license under Section 2004.201.

12 (d) A holder of a dealer's license that has been suspended
13 or revoked may not:

14 (1) receive, directly or indirectly, any
15 compensation, consideration, or payment of any kind relating to the
16 conduct of gaming in any capacity requiring a license under Section
17 2004.201, other than payment for services rendered before the
18 suspension or revocation; or

19 (2) serve or function in a capacity that would require
20 a license under Section 2004.201.

21 (e) The receipt and holding of a dealer's license is a
22 privilege and is not a right or property under the United States
23 Constitution or the Texas Constitution. An applicant for or holder
24 of a dealer's license does not have a vested interest or right in a
25 license granted under this chapter.

26 Sec. 2004.206. TRAINING PROGRAM FOR LICENSED DEALERS. (a)
27 A licensed dealer shall complete a training program in accordance

1 with commission rule.

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

4 (1) the conduct of poker gaming;

5 (2) the administration and operation of poker gaming;

6 (3) the promotion of poker gaming; and

7 (4) gaming awareness, including:

8 (A) problem or compulsive gambling;

9 (B) cheating techniques;

10 (C) underage gaming; and

11 (D) criminal awareness.

12 (c) The commission by rule shall establish:

13 (1) the content and time frame of the training
14 program;

15 (2) information related to training that must be
16 reported to the commission; and

17 (3) other training program requirements the
18 commission determines are necessary to promote the fair conduct of
19 poker gaming and compliance with this chapter.

20 Sec. 2004.207. OTHER EMPLOYEE'S LICENSES. (a) The
21 commission by rule may establish other employee's licenses the
22 commission determines are necessary to protect the public health,
23 safety, morals, and general welfare of the people of this state,
24 including licenses for principal managers, cage managers, owners,
25 and card room service personnel.

26 (b) A person may not engage in any conduct for which the
27 commission requires a person to hold a license under this section

1 unless the person holds the applicable license.

2 (c) The commission by rule shall prescribe procedures
3 governing licenses issued under this section as the commission
4 determines appropriate.

5 [Sections 2004.208-2004.250 reserved for expansion]

6 SUBCHAPTER F. MANUFACTURER'S AND DISTRIBUTOR'S LICENSES

7 Sec. 2004.251. MANUFACTURER'S LICENSE. (a) A person may
8 not engage in any activity related to the poker gaming equipment
9 manufacturing industry in this state for which a manufacturer's
10 license is required unless the person holds a manufacturer's
11 license for that activity.

12 (b) The commission shall adopt rules identifying activities
13 related to the design, manufacture, assembly, production, sale,
14 lease, marketing, distribution, or repair of poker gaming equipment
15 in this state for use in poker gaming authorized under this chapter
16 that the commission determines appropriate for licensing under this
17 section.

18 (c) A manufacturer's license is personal to the license
19 holder and allows the holder to conduct business related to the
20 licensed activity with any premises licensed to operate electronic
21 poker tables and poker gaming in this state.

22 Sec. 2004.252. DISTRIBUTOR'S LICENSE. (a) A person may not
23 distribute or offer to distribute poker gaming equipment for use in
24 poker gaming authorized under this chapter in this state, including
25 electronic poker tables, unless the person holds a distributor's
26 license under this subchapter.

27 (b) A person must obtain a distributor's license to

1 distribute poker gaming equipment in this state to a licensed
2 operator for use on premises at which poker gaming is conducted for
3 profit.

4 (c) A distributor's license is personal to the license
5 holder and allows the holder to conduct business with any premises
6 licensed to operate poker gaming in this state. The license is not
7 transferable.

8 Sec. 2004.253. LICENSE APPLICATION. (a) In accordance
9 with commission rules, an applicant for a manufacturer's license or
10 distributor's license shall file with the commission an application
11 that contains information the commission requires to determine the
12 suitability and eligibility of the applicant.

13 (b) The application must be signed by an applicant that is
14 an individual or by the presiding officer and the secretary of an
15 applicant that is a company. Each signatory shall attest under
16 penalties of perjury that the information contained in the
17 application is true, correct, and complete.

18 (c) An application for a manufacturer's license or
19 distributor's license must be accompanied by the required
20 application fee.

21 Sec. 2004.254. SUITABILITY DETERMINATION. (a) In
22 considering the suitability of a company applying for or holding a
23 manufacturer's license or distributor's license, the commission
24 shall consider the suitability of each principal manager and each
25 holder of an equity interest or creditor interest in the company
26 applicant to individually receive and hold a manufacturer's license
27 or distributor's license based on the suitability standards that

1 apply to the company applicant. A person may not hold a
2 manufacturer's license or distributor's license if that person
3 would be found unsuitable to hold an operator's license.

4 (b) If the commission determines that it has reasonable
5 grounds to believe an applicant or license holder is unsuitable to
6 hold a manufacturer's license or distributor's license, the
7 commission shall conduct an investigation and hearing under
8 Subchapter K and, based on the commission's determination, may
9 deny, suspend, limit, or revoke the license. If the applicant is an
10 entity other than an individual, the commission may investigate
11 equity owners of the applicant who have at least a 10 percent
12 ownership in the applicant.

13 (c) On suspension or revocation of a license, the license
14 holder may not perform any manufacturing activity or distribution
15 activity requiring a license under this chapter. A holder of a
16 manufacturer's or distributor's license that has been suspended or
17 revoked may not receive, directly or indirectly, compensation,
18 consideration, or payment of any kind relating to any manufacturing
19 or distribution activity in any capacity requiring a license under
20 this chapter, other than payment for goods provided before the
21 suspension or revocation.

22 (d) A licensed operator who has entered into a lease with a
23 manufacturer or distributor whose license has been suspended or
24 revoked may continue to make payments on the lease based on the
25 original terms of the lease without modification or may accelerate
26 the lease and pay it off, at the sole option of the operator.

27 (e) The burden of proving suitability to receive or hold a

1 manufacturer's or distributor's license is on the applicant or
2 license holder.

3 [Sections 2004.255-2004.300 reserved for expansion]

4 SUBCHAPTER G. LICENSE RENEWAL

5 Sec. 2004.301. TEMPORARY LICENSE. (a) Before issuing a
6 license under this chapter, the commission may issue a temporary
7 license for a period not to exceed six months and may renew the
8 temporary license as many times as the commission determines
9 appropriate on the payment of the fee and execution of the bond, if
10 required.

11 (b) The commission may issue a temporary license only to a
12 person the commission believes will be qualified to hold the
13 license based on:

14 (1) the commission's review of the background
15 investigations conducted by other state agencies or other
16 government agencies in United States or Canadian jurisdictions with
17 regulated poker gaming activities; and

18 (2) the commission's determination that the background
19 investigations of the applicant failed to reveal anything that
20 would cause the applicant not to qualify for a license in this
21 state.

22 Sec. 2004.302. TERM; RENEWAL. (a) A license issued under
23 this chapter expires on the first anniversary of the date of
24 issuance.

25 (b) A license holder may annually renew a license by meeting
26 the commission's licensing requirements and paying the annual
27 license fee.

1 (c) A commercial operator, other than an operator described
2 by Section 2004.103(a)(1)(B), must at all times hold:

3 (1) an active alcoholic beverage license or permit
4 issued by the Texas Alcoholic Beverage Commission authorizing the
5 operator to sell or serve distilled spirits for on-premises
6 consumption; or

7 (2) a pari-mutuel license issued by the Texas Racing
8 Commission authorizing the applicant to conduct wagering on a
9 greyhound race or a horse race.

10 (d) The operator shall submit with each license renewal fee
11 a renewal application on a form developed by the commission.

12 (e) A commercial operator shall immediately notify the
13 commission on suspension or cancellation by the Texas Alcoholic
14 Beverage Commission of any license or permit authorizing the
15 operator to sell or serve alcoholic beverages on the premises
16 licensed by the commission. The Texas Alcoholic Beverage
17 Commission shall notify the commission when it cancels a license or
18 permit authorizing an operator to sell or serve alcoholic
19 beverages.

20 (f) A commercial operator shall immediately notify the
21 commission on cancellation or revocation by the Texas Racing
22 Commission of any pari-mutuel license held by the commercial
23 operator authorizing the operator to conduct wagering on a
24 greyhound race or a horse race. The Texas Racing Commission shall
25 notify the commission when the Texas Racing Commission cancels or
26 revokes a pari-mutuel license authorizing an operator to conduct
27 wagering on a greyhound race or a horse race.

1 (g) A commercial operator's license under this chapter is
2 suspended at any time when any alcoholic beverage license or permit
3 held by the operator is suspended.

4 (h) The commission shall adopt rules for temporary
5 suspension of a commercial operator's license pending reissuance of
6 the license or permit to sell or serve alcoholic beverages on the
7 premises licensed by the commission.

8 [Sections 2004.303-2004.350 reserved for expansion]

9 SUBCHAPTER H. APPLICATION AND LICENSE FEES

10 Sec. 2004.351. APPLICATION FEES. (a) Except as provided by
11 Subsection (b), an applicant for a license required by this chapter
12 shall pay an application fee in the amount of:

13 (1) \$1,000 for a commercial operator's license;

14 (2) \$1,000 for a charitable operator's license;

15 (3) \$100 for a nonprofit organization license;

16 (4) \$100 for a dealer's license;

17 (5) \$250 for a manufacturer's license; or

18 (6) \$250 for a distributor's license.

19 (b) The commission may increase an application fee if the
20 amount prescribed by Subsection (a) does not cover the commission's
21 cost of evaluating the application and issuing a license.

22 (c) Application fees are nonrefundable and must:

23 (1) be in the form prescribed by the commission; and

24 (2) be payable to the commission.

25 (d) The commission shall apply an application fee toward the
26 cost of investigating the applicant's suitability for licensing or
27 qualification under this chapter. The applicant shall pay any

1 costs of investigation incurred in excess of the assessed
2 application fee.

3 Sec. 2004.352. LICENSE FEES. A holder of a license issued
4 under this chapter shall annually pay the commission a license fee
5 in the amount of:

6 (1) \$1,000 for a charitable or commercial operator's
7 license;

8 (2) \$100 for a dealer's license;

9 (3) \$250 for a manufacturer's license;

10 (4) \$250 for a distributor's license; or

11 (5) \$100 for a nonprofit organization license.

12 [Sections 2004.353-2004.400 reserved for expansion]

13 SUBCHAPTER I. TAXES

14 Sec. 2004.401. GROSS RECEIPTS TAX. (a) A tax is imposed on
15 the gross receipts received in connection with the premises of a
16 commercial operator conducting poker gaming under this chapter.

17 (b) Except as provided by Subsections (c) and (d), the tax
18 rate is 18 percent of the gross receipts received for poker gaming
19 by a commercial operator.

20 (c) Except as provided by Subsection (d), the tax rate is 16
21 percent of the gross receipts received for poker gaming by a
22 commercial operator who holds a pari-mutuel license described by
23 Section 2004.103(a)(1)(A)(ii).

24 (d) The tax rate is five percent of the gross receipts
25 received by a licensed operator during a charitable poker
26 tournament.

27 Sec. 2004.402. PAYMENT AND REPORTING OF TAX. (a) A

1 licensed operator must electronically submit a report of each day's
2 total gross receipts to the comptroller not later than 5 p.m. on the
3 day following the day the gross receipts were collected.

4 (b) The tax is due and payable by the licensed operator to
5 the comptroller not later than the deadline provided by Subsection
6 (a) for the report required by that subsection. The depository used
7 by a licensed operator for deposit of gross receipts taxes due to
8 the comptroller must be a licensed financial institution located in
9 this state. The comptroller may sweep or debit the licensed
10 operator's bank account on a daily basis to collect the gross
11 receipts tax due and payable. A licensed operator may not continue
12 to conduct any poker gaming activity on the operator's premises if,
13 at the time the comptroller sweeps the account, the amount reported
14 under Subsection (a) is not available for collection.

15 (c) The report of a tax must be filed under oath on forms
16 prescribed by the commission.

17 (d) The comptroller and the commission shall adopt rules for
18 the payment of the tax.

19 (e) A licensed operator required to file a tax return with
20 the comptroller shall provide a copy of the tax return to the
21 commission in the manner prescribed by commission rule.

22 (f) The comptroller shall deposit the revenue collected
23 under this section to the credit of the poker gaming revenue fund.

24 Sec. 2004.4025. POKER GAMING REVENUE FUND. (a) The poker
25 gaming revenue fund is established as an account held outside the
26 treasury.

27 (b) Money in the poker gaming revenue fund may be used only

1 for the following purposes:

2 (1) the payment of costs incurred by this state in the
3 regulation of poker gaming under this chapter; and

4 (2) after a sufficient amount is retained in the fund
5 to cover the costs provided by Subdivision (1), the balance to be
6 transferred on or before the 15th day of each month to the Texas
7 Department of Housing and Community Affairs to be used only as
8 follows:

9 (A) 50 percent for grants to municipalities,
10 counties, and nonprofit organizations to support activities
11 relating to:

12 (i) shelter and services for the homeless
13 and the prevention of homelessness;

14 (ii) renovation of shelters for use as
15 homeless shelters;

16 (iii) assistance to the homeless in
17 obtaining permanent housing;

18 (iv) medical and psychological counseling
19 for the homeless; and

20 (v) the supervision, development, and
21 implementation of homeless prevention activities; and

22 (B) the remainder to the housing trust fund
23 established under Section 2306.201, Government Code.

24 Sec. 2004.403. PENALTIES FOR FAILURE TO PAY OR REPORT TAX.

25 (a) A licensed operator that fails to deposit gross receipts tax
26 due and payable to the comptroller for the gross receipts collected
27 at the operator's premises by the deadline for payment of the tax

1 prescribed by Section 2004.402 may not conduct poker gaming at
2 those premises until the tax is paid.

3 (b) For an electronic poker table, the comptroller shall:

4 (1) electronically communicate with each electronic
5 poker table daily to verify that the software for the table is
6 functioning properly;

7 (2) electronically verify that this state has
8 collected the gross receipts tax imposed on the gross receipts of
9 the electronic poker table;

10 (3) develop rules providing minimum standards for
11 electronic poker tables used for charitable gaming activities; and

12 (4) electronically communicate with the table to
13 permit the table to be operational that day.

14 (c) If the gross receipts tax for an electronic poker table
15 has not been collected or the software for the electronic poker
16 table is not functioning properly, the comptroller shall prohibit
17 the operation of the electronic poker table by ensuring the table
18 does not receive the necessary communication from the comptroller
19 to be operational that day. The licensed operator must give the
20 comptroller and the commission assurances that the electronic poker
21 table will not open for play on that day or any subsequent day until
22 all gross receipts tax, interest, and penalties have been paid. The
23 comptroller shall adopt rules related to the assurances that a
24 licensed operator must give to the comptroller and commission under
25 this subsection.

26 (d) If a person fails to report gross receipts as required
27 by this subchapter or fails to pay to the comptroller taxes imposed

1 under this subchapter later than the second day after the date the
2 report or payment is due, the commission shall compute and
3 determine the amount of taxes required to be paid and shall assess a
4 penalty equal to five percent of the taxes owed. If the payment is
5 not received by the 30th day after the date the gross receipts tax
6 is due, the commission shall assess an additional penalty equal to
7 five percent of the gross receipts tax.

8 (e) A delinquent tax accrues interest at the rate provided
9 by Section 111.060, Tax Code, beginning on the 60th day after the
10 tax due date.

11 (f) Interest at the rate of 10 percent a year attaches to a
12 delinquency penalty imposed under Subsection (d), beginning on the
13 60th day after the date the penalty is imposed.

14 Sec. 2004.404. RECOMPUTATION OF TAX. (a) If the commission
15 is not satisfied with a tax return or the amount of tax required to
16 be remitted under this chapter to this state by a licensed operator,
17 the commission or the comptroller may compute and determine the
18 amount required to be paid on the basis of:

19 (1) the facts contained in the return or report of
20 receipts; or

21 (2) any information that the commission or comptroller
22 possesses, or that may come into the possession of the commission,
23 without regard to the period covered by the information.

24 (b) A licensed operator subject to a tax computed under this
25 section may request an investigation and hearing under Subchapter
26 K, at which the person may present evidence on the amount of tax
27 due.

1 (c) The commission shall conduct an audit of the person's
2 accounts as part of the investigation under Section 2004.501.

3 Sec. 2004.405. DETERMINATION IF RETURN NOT MADE. (a) If a
4 licensed operator fails to make a required return or if a person
5 conducts poker gaming without a license issued under this chapter,
6 the commission shall estimate the gross receipts received by the
7 operator or person. The estimate must cover the period:

- 8 (1) for which the operator failed to make a return; or
9 (2) during which the person conducted poker gaming
10 without a license.

11 (b) An estimate under this section must be based on any
12 information covering any period that the commission possesses or
13 that may come into the possession of the commission.

14 (c) On the basis of the commission's estimate, the
15 commission shall compute and determine the amount of taxes imposed
16 by this subchapter on those gross receipts and assess a penalty
17 equal to 10 percent of that tax amount.

18 (d) One or more determinations may be made under this
19 section for one or more periods.

20 Sec. 2004.406. JEOPARDY DETERMINATION. (a) If the
21 commission believes that the collection of a gross receipts tax
22 required to be paid or the amount of a determination under Section
23 2004.405 will be jeopardized by delay, the commission shall make a
24 determination of the amount of the tax required to be collected,
25 noting the finding of jeopardy on the determination. The
26 determined amount is due and payable immediately.

27 (b) If a license holder does not pay the amount specified by

1 a determination on or before the 20th day after the date of service
2 of the determination on the license holder, the amount becomes
3 final at the end of the 20th day unless the license holder files a
4 petition for redetermination on or before the 20th day after
5 service of notice of the determination.

6 (c) A delinquency penalty of 10 percent of the tax and
7 interest at the rate of 10 percent a year attaches to the amount of
8 the tax required to be collected.

9 Sec. 2004.407. APPLICATION OF TAX LAWS. Subtitle B, Title
10 2, Tax Code, applies to the administration, collection, and
11 enforcement of the gross receipts tax imposed under Section
12 2004.401 except as modified by this chapter.

13 Sec. 2004.408. DELINQUENCY: SEIZURE AND SALE. (a) At any
14 time before the third anniversary of the date a person becomes
15 delinquent in the payment of a gross receipts tax imposed under this
16 subchapter, the commission may collect the amount under this
17 section.

18 (b) The commission may order the sheriff or constable for
19 the jurisdiction in which licensed poker gaming tables for which a
20 gross receipts tax is delinquent to conduct the seizure and sale
21 authorized by this section. The sheriff or constable may deduct
22 reasonable expenses from any amount realized by sale of the
23 property.

24 (c) The commission or sheriff or constable shall seize
25 personal or real property of the license holder that is not exempt
26 from execution under the laws of this state and sell the property at
27 public auction to pay the amount of taxes due, any interest or

1 penalties due on those taxes, and any expense incurred in
2 connection with the seizure and sale. Personal property must be
3 seized and sold first, and real property may be seized and sold only
4 if the sale of personal property does not produce an amount
5 sufficient to pay the total amount of taxes, interest, or penalties
6 due. The seizure and sale must be conducted in accordance with
7 applicable state law.

8 Sec. 2004.409. SECURITY. (a) Not later than the fifth day
9 after the date the licensed operator receives notice from the
10 commission of an order approving the application for an operator's
11 license, each operator, to secure payment of the gross receipts tax
12 imposed under this subchapter, shall furnish to the commission
13 security in the form and amount the commission considers
14 appropriate, which may be in the form of:

15 (1) a cash bond;

16 (2) a bond from a surety company chartered or
17 authorized to conduct business in this state;

18 (3) certificates of deposit;

19 (4) certificates of savings;

20 (5) United States treasury bonds; or

21 (6) subject to the approval of the commission, an
22 assignment of negotiable stocks or bonds.

23 (b) The commission shall set the amount of the security,
24 taking into consideration the amount of money that has or is
25 expected to become due from the licensed operator, based on the
26 number of poker gaming tables to be operated on the operator's
27 premises. The commission may adjust the amount of security

1 required after the licensed operator begins conducting poker gaming
2 on the premises and paying gross receipts taxes.

3 (c) If a license holder fails to pay the gross receipts tax
4 imposed under this subchapter, the commission may notify the
5 license holder and any surety of the delinquency by jeopardy or
6 deficiency determination. If payment is not made when due, the
7 commission may order the forfeit of all or part of the security to
8 cover the amount due.

9 (d) If the licensed operator ceases to conduct poker gaming
10 and relinquishes the operator's license, the commission shall
11 authorize the release of all security on a determination that no
12 amounts of the gross receipts tax remain due and payable under this
13 subchapter.

14 [Sections 2004.410-2004.450 reserved for expansion]

15 SUBCHAPTER J. REGULATION OF POKER GAMING OPERATIONS

16 Sec. 2004.451. REGULATION OF POKER GAMING OPERATIONS. The
17 commission shall adopt rules applicable to the operation of poker
18 gaming at a licensed operator's premises as the commission
19 determines necessary for the protection of the public health,
20 safety, morals, and general welfare of the people of this state and
21 of the reputation of this state's poker gaming industry.

22 Sec. 2004.452. HOURS OF OPERATION. A licensed operator
23 that holds a license or permit issued by the Texas Alcoholic
24 Beverage Commission to sell or serve alcoholic beverages for
25 on-premises consumption may conduct poker gaming on the premises
26 covered by the operator's license only during the hours in which the
27 license holder may sell or serve alcoholic beverages under the

1 alcoholic beverage license or permit. A licensed operator that
2 does not hold a license or permit issued by the Texas Alcoholic
3 Beverage Commission to sell or serve alcoholic beverages for
4 on-premises consumption may conduct poker gaming on the premises
5 covered by the operator's license at any time. The hours of
6 operation for poker gaming must be clearly posted in the poker
7 gaming area. The hours of operation for a charitable poker
8 tournament shall be determined by the commission and be specified
9 in the permit.

10 Sec. 2004.453. TABLE LIMITS; TOURNAMENTS. (a) A licensed
11 operator shall establish table limits for each poker gaming table.

12 (b) The licensed operator may conduct tournaments at any
13 time and charge a buy-in fee not to exceed \$100 and a tournament
14 registration fee not to exceed \$30.

15 Sec. 2004.454. ELECTRONIC POKER TABLE. (a) An electronic
16 poker table must:

17 (1) include not fewer than 8 and not more than 10
18 player positions that each have:

19 (A) a central processing unit;

20 (B) a touch screen;

21 (C) an International Standards Organization 7816
22 smart card reader;

23 (D) a bill validator with currency verification
24 and counterfeit detection to allow players to deposit bank notes or
25 vouchers to play a poker game;

26 (E) a ticket printer to print a voucher with a bar
27 code that must be validated to allow a player to redeem the player's

1 winnings; and
2 (F) access to the cash collection box and ticket
3 printer without allowing access to any of the table's electronic
4 components that contain a central processing unit or any game logic
5 components;
6 (2) allow each player to:
7 (A) view cards dealt to the player and the
8 remaining chips and other game information; and
9 (B) input game decisions;
10 (3) include a video screen in the center of the table
11 that displays game information, chips bet by each player, every
12 action of the player in real time, and cards dealt to all players;
13 (4) maintain a complete hand history for a period of 30
14 days that is accessible to the commission by remote connection or
15 from the table with a secure access card from any player position;
16 (5) to quickly settle any dispute, provide a method
17 for viewing a visual snapshot of the previous 10 hands dealt at the
18 table with a view that includes the players' seats, individual
19 cards, wagers, net wins or losses for each hand, collection fees,
20 and communal cards;
21 (6) display the collection fee for the game in a
22 central location viewable by all players;
23 (7) provide a feature that enables complete recovery
24 of a complete game if a power disruption occurs during the hand;
25 (8) allow the commission, at the table or remotely, to
26 audit every event and action, including hand history, cash-in,
27 cash-out, and rake collection, that has occurred on the electronic

1 poker table within the period prescribed by the commission; and
2 (9) allow the commission, using a unique
3 commission-controlled access card, to verify at any time the status
4 and integrity of the table software to ensure that a modification or
5 deletion of a file located on any part of the electronic table has
6 not occurred, including on the server, at player positions, or on
7 the table's central processing unit.

8 (b) An electronic poker table must use:

9 (1) a controlled central server to deal electronic
10 cards to each player in a poker hand and to maintain the player's
11 virtual chip stacks, wagers placed, and house fees collected;

12 (2) a cashier system that logs and records all cash
13 flows, including each cash-in, cash-out, and house collection, and
14 that is used to report that information to the commission; and

15 (3) a remote lock-down function that allows the
16 commission to remotely lock down and prevent play indefinitely on
17 the table if the operator is delinquent in money owed to the
18 commission or is noncompliant with any law of this state.

19 Sec. 2004.455. BANK. A licensed operator shall establish
20 on the operator's premises a bank to convert legal United States
21 tender into chips or tokens and to convert chips or tokens into
22 cash.

23 Sec. 2004.456. USE OF CHIPS OR TOKENS. (a) All poker
24 gaming conducted by a licensed operator shall be conducted using
25 chips or tokens approved by the commission or be conducted on an
26 electronic poker table approved by the commission.

27 (b) All chips or tokens must bear the logo of the licensed

1 operator's premises and must be manufactured in a manner designed
2 to substantially decrease the chips' or tokens' susceptibility to
3 counterfeiting. The commission may inspect a licensed operator's
4 chips or tokens to confirm compliance with this section.

5 Sec. 2004.457. USE OF PLAYING CARDS. (a) Poker gaming
6 conducted by a licensed operator shall be played with one or more
7 poker industry standard poker card decks or, for an electronic
8 poker table, on an electronic poker table approved by the
9 commission that displays cards.

10 (b) Each poker card deck used in poker gaming must be sealed
11 with a label indicating the deck was manufactured or distributed by
12 a licensed manufacturer or distributor.

13 (c) Not more than 50 separate poker hands may be played with
14 the same poker card deck.

15 (d) Each poker card deck must be monitored and cataloged in
16 a log that documents the exact location of the cards on a licensed
17 operator's premises.

18 Sec. 2004.458. RULES OF PLAY. All poker rules used in poker
19 gaming conducted by a licensed operator shall be submitted to and
20 approved by the commission.

21 Sec. 2004.459. BOND REQUIREMENT. (a) Each employee of a
22 licensed operator who handles cash, other than an employee employed
23 to sell or serve alcoholic beverages, must be bonded.

24 (b) For each employee required to comply with Subsection
25 (a), a licensed operator shall:

26 (1) submit to the commission a copy of the certificate
27 evidencing that the employee has obtained a fidelity bond from a

1 surety company chartered or authorized to conduct business in this
2 state; and

3 (2) post a copy of the certificate in a conspicuous
4 location on the operator's premises.

5 Sec. 2004.460. BADGES. (a) During the operation of poker
6 gaming, each individual licensed under this chapter shall wear in a
7 prominently visible location on the individual's person a numbered
8 badge issued by the commission.

9 (b) An individual who ceases employment with a licensed
10 operator shall immediately surrender the individual's badge to the
11 operator. Not later than the 10th day after the date the individual
12 surrenders the badge, the licensed operator shall:

13 (1) on a form adopted by the commission notify the
14 commission in writing of a change in status of the individual; and

15 (2) submit the surrendered badge to the commission.

16 (c) The badge must prominently display on the front of the
17 badge:

18 (1) capital letters identifying the license held by
19 the individual;

20 (2) the first name of the individual;

21 (3) the picture of the individual submitted with the
22 individual's license application;

23 (4) the badge number; and

24 (5) the expiration date of the license.

25 (d) The full name of the license holder, along with the type
26 of license, must be printed on the reverse side of the badge.

27 Sec. 2004.461. BONUS PROGRAMS. (a) The commission by rule

1 shall establish promotion bonus programs for bad beat hands and
2 other bonus programs. The programs may be statewide or limited to
3 individual premises.

4 (b) Each licensed operator shall:

5 (1) collect promotion bonus fees in accordance with
6 commission rule; and

7 (2) award a bonus that does not exceed \$250 to the
8 player who wins the bonus.

9 (c) The amount awarded under Subsection (b)(2) shall be
10 deducted from the daily promotion bonus fee that would otherwise be
11 remitted to this state.

12 (d) The commission shall award to the winning player of a
13 bonus program any amount that exceeds \$250.

14 (e) A distributor may collect from the commission an
15 administrative fee, not to exceed 20 percent of the promotion bonus
16 fee paid to a winning player.

17 (f) A promotion bonus program for bad beat hands or any
18 other bonus program may not be offered for a charitable poker
19 tournament.

20 Sec. 2004.462. COLLECTION FEE. (a) Each licensed operator
21 shall collect a collection fee on each poker hand played. The
22 collection fee may not exceed 10 percent of the communal pot in each
23 hand of poker played, with a maximum of \$4 per hand.

24 (b) The commission shall adopt rules necessary to
25 administer this section.

26 Sec. 2004.463. PROMOTION BONUS FEE. (a) A promotion bonus
27 fee may not exceed \$1 per hand.

1 (b) The promotion bonus fee shall be remitted to this state,
2 after deducting the gross receipts tax, the fee used for bonus
3 programs, and administrative fees not to exceed 20 percent of the
4 promotion bonus fee.

5 Sec. 2004.464. CONTRIBUTION TO PURSE FUND. (a) A
6 pari-mutuel license holder described by Section
7 2004.103(a)(1)(A)(ii) that conducts poker gaming in this state
8 shall deposit in a purse fund two percent of the license holder's
9 gross receipts from that poker gaming.

10 (b) Money in the purse fund may only be expended in
11 accordance with rules adopted by the Texas Racing Commission under
12 Section 18.09, Texas Racing Act (Article 179e, Vernon's Texas Civil
13 Statutes).

14 Sec. 2004.465. REPORTING REQUIREMENTS. (a) A licensed
15 operator shall keep books and records in a manner that clearly shows
16 the total amount of gross receipts and total deposits made by all
17 poker gaming players.

18 (b) The books and records kept by a licensed operator
19 relating to poker gaming operations are not public information, and
20 publication and dissemination of the materials by the commission
21 are prohibited. The commission may publish and disseminate the
22 total gross receipts of each licensed operator at the frequency and
23 in the level of detail the commission considers appropriate.

24 (c) A licensed operator that is not an individual shall file
25 a report of each change of the operator's officers and directors
26 with the commission. The commission shall, not later than the 90th
27 day after the date of the change, approve or disapprove the change.

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

4 (d) The commission may require that a licensed operator
5 provide the commission with a copy of the operator's federal income
6 tax return not later than the 30th day after the date the return is
7 filed with the federal government. The federal income tax returns
8 submitted to the commission are not public information, and
9 publication and dissemination of the materials by the commission
10 are prohibited.

11 Sec. 2004.466. EXCLUSION OF PERSONS. (a) The commission by
12 rule shall provide for the maintenance of a list of persons who are
13 to be excluded or ejected from poker gaming premises. The list may
14 include a person whose presence in poker gaming premises is
15 determined by the commission to pose a threat to the interests of
16 this state, to licensed poker gaming, or to both.

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

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

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

25 (A) the failure to disclose an interest in a
26 licensed operator;

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

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

4 Sec. 2004.467. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) A
5 licensed operator shall adopt an internal control system that
6 provides for:

7 (1) the safeguarding of its assets and revenues, which
8 must include means for the recording of cash transactions and
9 balances and evidences of indebtedness; and

10 (2) the provision of reliable records, accounts, and
11 reports of transactions, operations, and events, including reports
12 to the director and the commission.

13 (b) The internal control system must be designed to
14 reasonably ensure that:

15 (1) assets are safeguarded;

16 (2) financial records are accurate and reliable;

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

19 (4) transactions are recorded adequately to permit
20 proper reporting of poker gaming revenue and of fees and taxes and
21 to maintain accountability for assets;

22 (5) access to assets is permitted only in accordance
23 with the licensed operator's specific authorization;

24 (6) recorded accountability for assets is compared
25 with actual assets at reasonable intervals and appropriate action
26 is taken with respect to any discrepancies; and

27 (7) functions, duties, and responsibilities are

1 appropriately segregated and performed in accordance with sound
2 practices by competent, qualified personnel.

3 (c) A licensed operator or an applicant for an operator's
4 license shall describe, in a manner approved or required by the
5 director, the licensed operator's or applicant's administrative and
6 accounting procedures in detail in a written system of internal
7 control. A licensed operator or applicant for an operator's
8 license shall submit a copy of the written system. A written system
9 must include:

10 (1) an organizational chart depicting appropriate
11 segregation of duties and responsibilities;

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

14 (3) a detailed narrative description of the
15 administrative and accounting procedures designed to satisfy the
16 requirements of Section 2004.402(a);

17 (4) a written statement signed by the licensed
18 operator or applicant's chief financial officer or by the licensed
19 operator or applicant, if an individual, attesting that the system
20 satisfies the requirements of this section;

21 (5) if the written system is submitted by an
22 applicant, a letter from an independent certified public accountant
23 stating that the applicant's written system has been reviewed by
24 the certified public accountant and complies with the requirements
25 of this section; and

26 (6) other items the director may require.

27 (d) The commission shall adopt minimum standards for

1 internal control procedures.

2 (e) For an electronic poker table, the internal control
3 system records required under this section must be created and
4 maintained by the electronic poker table system. The system must:

5 (1) create an audit trail that records any changes,
6 modifications, or deletions of any records required by this
7 section;

8 (2) allow the commission to audit the accuracy of and
9 to authenticate any data included in the records; and

10 (3) allow the commission to verify, remotely and at
11 the table using a secure access card from any player position,
12 whether any files associated with the table have been modified,
13 hidden, compromised, or deleted.

14 Sec. 2004.468. AGE REQUIREMENTS. A person younger than 21
15 years of age may not:

16 (1) play, be allowed to play, place wagers, or collect
17 a communal pot, personally or through an agent, or be present during
18 poker gaming at any premises authorized under this chapter; or

19 (2) be employed as a poker gaming employee.

20 Sec. 2004.469. VIDEO SURVEILLANCE AND DISPUTE RESOLUTION.

21 (a) Except as provided by Subsection (b) or by commission rule for
22 a charitable poker tournament, video surveillance of the poker
23 gaming conducted at each poker gaming table shall be provided by the
24 licensed operator. At least two video surveillance cameras must be
25 dedicated to each poker gaming table. The video cameras must have a
26 clear, unobstructed view of the communal cards, chips, and dealers'
27 hands. The video records must be maintained for at least 30 days

1 unless a notice is received from the commission under Subsection
2 (d), in which case the video surveillance tape recording must be
3 maintained until the commission notifies the operator that the
4 dispute has been resolved.

5 (b) Video surveillance is not required if all the poker
6 gaming tables used on the premises licensed by the commission are
7 electronic poker tables approved by the commission.

8 (c) If a player at a poker gaming table disputes the
9 decision of the dealer regarding the final disposition of an
10 individual game, the player may file a complaint with the licensed
11 operator. The licensed operator shall attempt to resolve a gaming
12 dispute immediately on receiving a complaint.

13 (d) Players in a poker game must make a formal complaint of
14 the dispute to the commission by the end of the next business day
15 following the date of the poker game. The commission shall notify
16 the licensed operator immediately of the complaint, and the
17 operator shall send to the commission a copy of any video recording
18 related to the complaint.

19 (e) The commission shall adopt rules and develop forms for
20 use by players for resolution of complaints submitted by players
21 under this section.

22 (f) The commission shall establish rules for surveillance
23 at charitable poker tournaments.

24 Sec. 2004.470. QUESTIONING AND DETENTION OF PERSONS. A
25 licensed operator or an employee of the operator may question any
26 person on the poker gaming premises who is suspected of violating
27 this chapter. The licensed operator or the operator's employee is

1 not criminally or civilly liable:

2 (1) as a result of the questioning; or

3 (2) for reporting the person suspected of the
4 violation to the director or law enforcement authorities.

5 Sec. 2004.471. SERVICE OF COMPLIMENTARY ALCOHOLIC
6 BEVERAGES PROHIBITED. A licensed operator may not serve
7 complimentary alcoholic beverages to a player on the operator's
8 poker gaming premises.

9 [Sections 2004.472-2004.500 reserved for expansion]

10 SUBCHAPTER K. ENFORCEMENT

11 Sec. 2004.501. INVESTIGATION. The commission may conduct
12 an appropriate investigation to:

13 (1) determine whether this chapter or a commission
14 rule was violated;

15 (2) determine facts, conditions, practices, or
16 matters the commission considers necessary or proper to aid in the
17 enforcement of a law or rule;

18 (3) aid in adopting rules;

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

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

24 Sec. 2004.502. AUDIT. The commission may conduct an audit
25 of a license holder's books and records as part of the
26 investigation. If a recomputation of tax under Section 2004.404 is
27 at issue, the commission shall conduct an audit.

1 Sec. 2004.503. COMPLAINT. (a) If after an investigation
2 the commission is satisfied that a license, registration, finding
3 of suitability, or prior approval by the commission of a
4 transaction for which approval was required or permitted under this
5 chapter should be limited, conditioned, suspended, or revoked, or
6 that a fine should be imposed, the executive director shall
7 initiate a hearing by filing a complaint with the commission and
8 transmit a summary of evidence that bears on the matter and the
9 transcript of testimony at an investigative hearing conducted by or
10 on behalf of the executive director regarding the matter. The
11 complaint must:

12 (1) be a written statement of charges that sets forth
13 in ordinary and concise language the acts or omissions with which
14 the respondent is charged;

15 (2) specify the statute or rule that the respondent is
16 alleged to have violated;

17 (3) contain a factual allegation; and

18 (4) not consist merely of charges raised on the
19 language of the statute or rule.

20 (b) On the filing of the complaint, the executive director
21 shall serve a copy of the complaint on the respondent either
22 personally or by registered or certified mail at the respondent's
23 address on file with the executive director.

24 (c) The respondent must file an answer with the executive
25 director not later than the 30th day after the date of the service
26 of the complaint.

27 Sec. 2004.504. HEARING. (a) On receipt of a complaint

1 under this subchapter, the commission shall review all matter
2 presented in support of the complaint and shall appoint a hearing
3 examiner to conduct further proceedings.

4 (b) The hearing examiner shall conduct proceedings under
5 Chapter 2001, Government Code. After the proceedings, the hearing
6 examiner may recommend that the commission take any appropriate
7 action, including revocation, suspension, limitation, or
8 conditioning of a license, finding of suitability, or prior
9 approval, or imposition of a fine not to exceed \$5,000 for each
10 violation.

11 (c) The commission shall review the recommendation. The
12 commission may remand the case to the hearing examiner for
13 presentation of additional evidence on a showing of good cause as to
14 why the evidence could not have been presented at the previous
15 hearing.

16 (d) The commission shall accept, reject, or modify the
17 recommendation.

18 (e) If the commission limits, conditions, suspends, or
19 revokes a license, finding of suitability, or prior approval, or
20 imposes a fine, the commission shall issue a written order.

21 (f) A limitation, condition, revocation, suspension, or
22 fine imposed is effective according to its terms until reversed
23 following judicial review, except that the commission may stay its
24 order pending a rehearing or judicial review on terms and
25 conditions the commission considers proper.

26 Sec. 2004.505. JUDICIAL REVIEW. Judicial review of an
27 order or decision of the commission may be made under Chapter 2001,

1 Government Code. Judicial review is under the substantial evidence
2 rule.

3 Sec. 2004.506. PRIVILEGED DOCUMENTS. (a) A communication
4 or document of an applicant or license holder that is required by
5 law or commission rule or by a subpoena issued by the commission and
6 that is to be made or transmitted to the commission is privileged
7 and does not impose liability for defamation or constitute a ground
8 for recovery in a civil action.

9 (b) If a document or communication contains information
10 that is privileged, the privilege is not waived or lost because the
11 document or communication is disclosed to the commission.

12 (c) Notwithstanding the powers granted to the commission by
13 this chapter, the commission:

14 (1) may not release or disclose privileged
15 information, documents, or communications provided by an applicant
16 or license holder and required by a court order after timely notice
17 of the proceedings has been given to the applicant or license holder
18 without the prior written consent of the applicant or license
19 holder;

20 (2) shall maintain all privileged information,
21 documents, and communications in a secure place accessible only to
22 commission members and the executive director; and

23 (3) shall adopt procedures to protect the privileged
24 nature of information, documents, and communications provided by an
25 applicant or license holder.

26 Sec. 2004.507. RELEASE OF CONFIDENTIAL INFORMATION. (a)
27 An application to a court for an order requiring the commission to

1 release any confidential information shall be made only on a
2 written motion delivered not later than the 10th day before the date
3 of application to the commission, the attorney general, and all
4 persons who may be affected by the entry of the order.

5 (b) Copies of the motion and all papers filed in support of
6 the motion shall be served with the notice by delivering a copy in
7 person or by certified mail to the last known address of the person
8 to be served.

9 Sec. 2004.508. EMERGENCY ORDERS. (a) The commission may
10 issue an emergency order to:

11 (1) suspend, limit, or condition a license or finding
12 of suitability; or

13 (2) require a licensed operator to keep an individual
14 license holder from the premises or to not pay the holder any
15 remuneration for services or any profits, income, or accruals on
16 the licensed operator's investment in the premises.

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

19 (1) a license holder or person found suitable has
20 wilfully failed to report, pay, or truthfully account for a fee,
21 tax, or other amount imposed under this chapter or wilfully
22 attempted in any manner to evade or defeat a fee, tax, or other
23 payment;

24 (2) a license holder cheated at a poker game; or

25 (3) the action is necessary for the immediate
26 preservation of the public peace, health, safety, morals, good
27 order, or general welfare.

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

4 (d) An emergency order may be issued only with the approval
5 of and under the signature of a majority of the commission members.

6 (e) An emergency order is effective immediately on issuance
7 and service on the license holder or resident agent of the license
8 holder, an employee, or, in cases involving registration or
9 findings of suitability, the person or entity involved or resident
10 agent of the entity involved. An emergency order may suspend,
11 limit, condition, or take other action in relation to the license,
12 registration, or suitability finding of one or more persons in an
13 operation without affecting other individual license holders or
14 persons subject to a suitability finding. An emergency order
15 remains effective until further order of the commission or final
16 disposition of the case.

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

24 Sec. 2004.509. ACCESS TO CRIMINAL HISTORY RECORD
25 INFORMATION. (a) The commission, the executive director, and the
26 director are entitled to conduct an investigation of and obtain
27 criminal history record information maintained by the Department of

1 Public Safety, the Federal Bureau of Investigation identification
2 division, or another law enforcement agency to assist in the
3 investigation of:

4 (1) a licensed operator or an applicant for an
5 operator's license;

6 (2) a person required to be named in a license
7 application;

8 (3) an employee of a licensed operator, if the
9 employee is or will be directly involved in poker gaming
10 operations;

11 (4) a person who manufactures or distributes poker
12 gaming equipment, or a representative of a person who manufactures
13 or distributes poker gaming equipment or supplies offered to a
14 poker card room;

15 (5) a dealer or other employee license holder or
16 applicant;

17 (6) a registered owner of an equity or creditor
18 interest in a licensed operator or an applicant for such a
19 registration;

20 (7) a licensed nonprofit organization or an applicant
21 for a nonprofit organization license; or

22 (8) if a person described in another subdivision of
23 this subsection is 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

1 percent in the person;

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

4 (E) is the owner or lessee of a business that the
5 person conducts or through which the person will conduct poker
6 gaming-related activities;

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

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

11 (H) is an employee of the person who is or will be
12 involved in providing services to a poker card room.

13 (b) On each anniversary of the date of issuance of an
14 operator's license, the commission shall obtain criminal history
15 record information maintained by the Department of Public Safety on
16 the licensed operator and on each holder of a 10 percent or greater
17 equity or creditor interest in the licensed operator.

18 (c) Not later than the first anniversary after the date of
19 each license renewal, the commission shall obtain criminal history
20 record information maintained by the Department of Public Safety on
21 each licensed dealer or other employee, manufacturer, or
22 distributor.

23 Sec. 2004.510. FINGERPRINTS. The commission may deny an
24 application for a license or the commission may suspend or revoke a
25 license or certificate of registration if the applicant fails on
26 request to provide a complete legible set of fingerprints of a
27 person required to be named in a license application.

1 Sec. 2004.511. DEPARTMENT OF PUBLIC SAFETY ASSISTANCE;
2 COSTS OF INVESTIGATION. (a) The executive director or the director
3 may request the cooperation of the Department of Public Safety to
4 perform a background investigation of a person listed in Section
5 2004.509. The commission shall reimburse the department for the
6 actual cost of an investigation.

7 (b) The executive director may require a person who is
8 subject to investigation to pay all costs of the investigation and
9 to provide any information, including fingerprints, necessary to
10 carry out the investigation or facilitate access to state or
11 federal criminal history record information. Payments made to the
12 executive director under this subsection shall be deposited in the
13 general revenue fund and may be used only to reimburse the
14 commission or the Department of Public Safety for the actual costs
15 of an investigation.

16 (c) Unless otherwise prohibited by law, the Department of
17 Public Safety may retain any record or information submitted to it
18 under this section. The department shall notify the executive
19 director or the director of any change in information provided to
20 the executive director or the director when the department learns
21 of the change.

22 [Sections 2004.512-2004.550 reserved for expansion]

23 SUBCHAPTER L. PENALTIES AND OFFENSES

24 Sec. 2004.551. FAILURE TO PAY FEES. (a) License fees and
25 other fees required by this chapter must be paid to the commission
26 on or before the dates provided by law for each fee.

27 (b) A person failing to timely pay a fee when due shall pay

1 in addition a penalty of not less than \$50 or 25 percent of the
2 amount due, whichever is greater. The penalty may not exceed \$1,000
3 if the fee is less than 10 days late and may not exceed \$5,000 under
4 any circumstances. The penalty shall be collected in the same
5 manner as other charges, license fees, and penalties under this
6 chapter.

7 Sec. 2004.552. FAILURE TO REPORT, PAY, OR ACCOUNT FOR FEE.

8 (a) A person commits an offense if the person wilfully fails to
9 report, pay, or truthfully account for a fee imposed under this
10 chapter or wilfully attempts in any manner to evade or defeat a fee.

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

12 Sec. 2004.553. FRAUD. (a) A person commits an offense if
13 the person knowingly:

14 (1) alters or misrepresents the outcome of a poker
15 game on which wagers have been made after the outcome is made sure
16 but before it is revealed to the players;

17 (2) places, increases, or decreases a bet or
18 determines the course of play after acquiring knowledge, not
19 available to all players, of the outcome of the game or an event
20 that affects the outcome of the game or that is the subject of the
21 bet or aids anyone in acquiring such knowledge for the purpose of
22 placing, increasing, or decreasing a bet or determining the course
23 of play contingent on that event or outcome;

24 (3) claims, collects, or takes, or attempts to claim,
25 collect, or take, money or anything of value in or from a poker
26 game, with intent to defraud, without having made a wager
27 contingent on the poker game, or claims, collects, or takes an

1 amount greater than the amount won;

2 (4) induces another to go to a place where poker gaming
3 is being conducted or operated in violation of this chapter, with
4 the intent that the other person play or participate in that poker
5 gaming; or

6 (5) manipulates, with the intent to cheat, a component
7 of poker gaming equipment in a manner contrary to the designed and
8 normal operational purpose for the component, with knowledge that
9 the manipulation affects the conduct or outcome of a poker game or
10 with knowledge of an event that affects the outcome of the game.

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

13 Sec. 2004.554. USE OF PROHIBITED DEVICES. (a) A person
14 commits an offense if the person, at a premises of a licensed
15 operator, uses or possesses with the intent to use a device, other
16 than a device customarily used in the conduct of poker gaming, to
17 assist in:

18 (1) projecting the outcome of a poker game; or

19 (2) analyzing the probability of the occurrence of an
20 event relating to the game.

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

23 Sec. 2004.555. USE OF COUNTERFEIT OR UNAUTHORIZED CHIPS,
24 TOKENS, PLAYING CARDS, OR OTHER DEVICES. (a) A person commits an
25 offense if the person knowingly uses counterfeit chips, tokens, or
26 playing cards in a poker game.

27 (b) A person commits an offense if the person, in playing a

1 poker game designed to be played with chips or tokens approved by
2 the commission:

3 (1) knowingly uses a chip or token other than a chip or
4 token approved by the commission; or

5 (2) uses any device or other means to violate the
6 provisions of this chapter.

7 (c) A person, other than an authorized employee of a
8 licensed operator acting in furtherance of the person's employment
9 in an establishment, commits an offense if the person knowingly has
10 on the person's body or in the person's possession on or off the
11 premises where poker gaming is conducted a device intended to be
12 used to violate the provisions of this chapter.

13 (d) A person, other than an authorized employee of a
14 licensed operator acting in furtherance of the person's employment
15 in an establishment, commits an offense if the person knowingly has
16 on the person's body or in the person's possession on or off the
17 premises a key or device known to have been designed for the purpose
18 of and suitable for opening, entering, or affecting the operation
19 of a poker gaming table, a drop box, or an electronic or mechanical
20 device connected to the table or box or for removing money or other
21 contents from the table or box.

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

26 (f) An offense under this section is a felony of the third
27 degree.

1 Sec. 2004.556. CHEATING. (a) A person commits an offense
2 if the person knowingly cheats at any poker game.

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

4 Sec. 2004.557. UNAUTHORIZED OPERATION OF POKER GAMING
5 TABLES. (a) A person commits an offense if the person operates
6 poker gaming tables without a license issued by the commission.

7 (b) A person commits an offense if the person operates more
8 than four poker gaming tables at the premises of a licensed
9 operator.

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

11 Sec. 2004.558. POSSESSION OF UNLAWFUL DEVICES. (a) A
12 person commits an offense if the person knowingly possesses any
13 poker gaming device that has been manufactured, sold, or
14 distributed in violation of this chapter.

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

16 Sec. 2004.559. UNLAWFUL MANUFACTURE, SALE, OR DISTRIBUTION
17 OF POKER GAMING EQUIPMENT. (a) A person commits an offense if the
18 person manufactures, sells, or distributes electronic poker
19 tables, cards, chips, or a device intended for use in violating this
20 chapter.

21 (b) A person commits an offense if the person marks, alters,
22 or otherwise modifies any electronic poker tables, cards, chips,
23 tokens, or poker gaming device in a manner that:

24 (1) affects the result of a wager by determining win or
25 loss; or

26 (2) alters the normal criteria of random selection
27 that affect the operation of a game or determine the outcome of a

1 game.

2 (c) A person commits an offense if the person instructs
3 another person in cheating or in the use of a device for cheating at
4 any poker game authorized to be conducted at the premises of a
5 licensed operator, with the knowledge or intent that the
6 information or use may be employed to violate this chapter.

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

9 Sec. 2004.560. REPORTING PENALTIES. (a) A person commits
10 an offense if the person, in a license application, in a book or
11 record required to be maintained by this chapter or a rule adopted
12 under this chapter, or in a report required to be submitted by this
13 chapter or a rule adopted under this chapter:

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

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

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

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

23 Sec. 2004.561. GAMING BY MINORS. (a) A person commits an
24 offense if the person knowingly permits an individual that the
25 person knows is younger than 21 years of age to participate in poker
26 gaming at premises at which poker gaming is conducted under a
27 license issued under this chapter.

1 (b) An individual younger than 21 years of age commits an
2 offense if the individual participates in poker gaming at premises
3 at which poker gaming is conducted under a license issued under this
4 chapter.

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

6 Sec. 2004.562. GENERAL PENALTY; CONSPIRACY. (a) A person
7 commits an offense if the person knowingly or wilfully violates,
8 attempts to violate, or conspires to violate a provision of this
9 chapter specifying a prohibited act.

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

12 SECTION 2. Section 47.02(c), Penal Code, is amended to read
13 as follows:

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

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

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

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

23 (4) was permitted under the Texas Racing Act (Article
24 179e, Vernon's Texas Civil Statutes); [~~or~~]

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

1 or

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

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

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

10 (1) to the premises of a licensed operator under
11 Chapter 2004, Occupations Code, at which poker gaming may be
12 conducted under the license; or

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

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

17 (a) It is a defense to prosecution under this chapter that
18 the conduct:

19 (1) was authorized under:

20 (A) Chapter 2001, Occupations Code;

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

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

24 (D) Chapter 2004, Occupations Code;

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

27 (3) was a necessary incident to the operation of the

1 state lottery and was directly or indirectly authorized by:

2 (A) Chapter 466, Government Code;

3 (B) the lottery division of the Texas Lottery
4 Commission;

5 (C) the Texas Lottery Commission; or

6 (D) the director of the lottery division of the
7 Texas Lottery Commission.

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

10 Sec. 151.356. ELECTRONIC AND ELECTROMECHANICAL GAMING
11 DEVICES. An electronic or electromechanical gaming device that is
12 intended to be used to conduct poker gaming under Chapter 2004,
13 Occupations Code, is exempt from the tax imposed by this chapter and
14 from the other provisions of this chapter.

15 SECTION 6. Section 411.108, Government Code, is amended by
16 adding Subsection (a-1) and amending Subsection (b) to read as
17 follows:

18 (a-1) The Texas Lottery Commission is entitled to obtain
19 from the department criminal history record information maintained
20 by the department that relates to a person for whom the commission
21 may request criminal history record information under Section
22 2004.509, Occupations Code.

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

27 SECTION 7. Section 467.035(a), Government Code, is amended

1 to read as follows:

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

4 (1) a bingo commercial lessor, bingo distributor, or
5 bingo manufacturer; [~~or~~]

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

7 (3) a licensed operator or other license holder under
8 Chapter 2004, Occupations Code.

9 SECTION 8. Article 18, Texas Racing Act (Article 179e,
10 Vernon's Texas Civil Statutes), is amended by adding Section 18.09
11 to read as follows:

12 Sec. 18.09. POKER GAMING PURSE PROCEEDS. (a) To protect the
13 public and ensure continued support for the racing industry in this
14 state, the commission shall adopt rules to establish procedures
15 governing the deposit, accounting, audit, investment, and use of
16 money required to be deposited into a purse fund under Section
17 2004.464, Occupations Code.

18 (b) Other than limited administrative expenses authorized
19 by commission rule, the money deposited into a purse fund under
20 Section 2004.464, Occupations Code, may be used only to promote the
21 racing industry in this state by providing money for competitive
22 purses.

23 SECTION 9. Not later than January 1, 2010, the Texas Lottery
24 Commission shall adopt the rules, develop the applications and
25 forms, and establish the procedures necessary to implement Chapter
26 2004, Occupations Code, as added by this Act.

27 SECTION 10. This Act takes effect September 1, 2009.