

By: Chavez

H.B. No. 1308

A BILL TO BE ENTITLED

AN ACT

relating to certain gaming activity conducted by an Indian tribe or tribal organization.

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

SECTION 1. Section 47.09(a), Penal Code, is amended to read as follows:

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

(1) was authorized under:

(A) Chapter 2001, Occupations Code;

(B) Chapter 2002, Occupations Code; or

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

(2) consisted entirely of participation in gambling or other gaming activity that:

(A) is or may be permitted under the Indian Gaming Regulatory Act (18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section 2701 et seq.), without regard to whether the gambling or gaming activity is conducted by an Indian tribe to which that Act applies; and

(B) is conducted:

(i) by an Indian tribe or tribal organization that was included on the January 30, 1998, list of recognized Indian tribes by the United States secretary of the

1 interior as required under 25 U.S.C. Section 479a-1; and

2 (ii) on premises designated by the tribe or  
3 tribal organization for that gambling or other gaming activity on  
4 land that was recognized as tribal land of that tribe or tribal  
5 organization by the federal government on January 1, 1998;

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

8 (4) [~~(3)~~] was a necessary incident to the operation of  
9 the state lottery and was directly or indirectly authorized by:

10 (A) Chapter 466, Government Code;

11 (B) the lottery division of the Texas Lottery  
12 Commission;

13 (C) the Texas Lottery Commission; or

14 (D) the director of the lottery division of the  
15 Texas Lottery Commission.

16 SECTION 2. (a) The change in law made by Section 1 of this  
17 Act applies only to an offense committed on or after the effective  
18 date of this Act.

19 (b) An offense committed before the effective date of this  
20 Act is covered by the law in effect when the offense was committed,  
21 and the former law is continued in effect for that purpose. For the  
22 purposes of this section, an offense is committed before the  
23 effective date of this Act if any element of the offense occurs  
24 before that date.

25 SECTION 3. This Act takes effect September 1, 2009.