

By: Chavez

H.B. No. 4533

Substitute the following for H.B. No. 4533:

By: Thompson

C.S.H.B. No. 4533

A BILL TO BE ENTITLED

AN ACT

relating to the conduct of charitable poker runs by certain nonprofit organizations.

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

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

CHAPTER 2004. CHARITABLE POKER RUNS

Sec. 2004.001. DEFINITIONS. In this chapter:

(1) "Charitable poker run" means an organized event in which a person participates in a poker run operated or conducted by a nonprofit organization that retains the net proceeds of the event for a charitable purpose.

(2) "Charitable purpose" means a purpose described by Section 2004.004.

(3) "Entrance fee" means the amount a qualified nonprofit organization charges a person to participate in a poker run.

(4) "Poker run" means an organized event in which:

(A) each participant travels a predesigned route by motorcycle, boat, car, or other form of transportation, stops at designated locations, and draws a playing card;

(B) at the end of the route, each participant attempts to make the highest poker hand possible using the cards received at the designated locations;

1 (C) the participant holding the highest poker
2 hand is entitled to a prize; and

3 (D) the entrance fee for the event funds the
4 operation of the event, including the award of a prize.

5 (5) "Qualified nonprofit organization" means an
6 unincorporated association or a nonprofit corporation formed under
7 the Texas Nonprofit Corporation Law, as described by Section 1.008,
8 Business Organizations Code, that:

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

12 (B) has tax-exempt status under Section
13 501(c)(3), Internal Revenue Code of 1986.

14 Sec. 2004.002. CHARITABLE POKER RUN AUTHORIZED. A
15 qualified nonprofit organization may conduct a charitable poker run
16 in accordance with this chapter.

17 Sec. 2004.003. CONDUCT OF POKER RUN. A charitable poker run
18 shall be conducted, promoted, and administered exclusively by
19 members of a qualified nonprofit organization.

20 Sec. 2004.004. USE OF PROCEEDS. (a) Except as provided by
21 Subsection (b), all proceeds from the entrance fees must be used for
22 the charitable purposes of the qualified nonprofit organization.

23 (b) A qualified nonprofit organization conducting a
24 charitable poker run may use a portion of the proceeds from the
25 entrance fees to provide prizes, including cash prizes, to winners
26 of the poker run.

27 (c) For purposes of this section, a qualified nonprofit

1 organization is considered to use the proceeds from the entrance
2 fees for the organization's charitable purposes if not later than
3 the 10th day after the poker run is completed the organization
4 donates the proceeds to another qualified nonprofit organization
5 that agrees to use the proceeds exclusively for the charitable
6 purposes of the other organization.

7 (d) An organization to which proceeds are donated as
8 described by Subsection (c) must:

9 (1) use the proceeds for the charitable purposes of
10 the organization not later than the second anniversary of the date
11 the organization receives the proceeds; and

12 (2) maintain a record of the receipt of the proceeds
13 and of the charitable purposes for which the proceeds are used for
14 not less than four years after the date on which the organization
15 receives the proceeds.

16 Sec. 2004.005. REQUIREMENTS FOR CHARITABLE POKER RUN. A
17 charitable poker run held under this chapter must:

18 (1) require a participant to pay an entrance fee;

19 (2) require each participant to travel to at least
20 five different locations along a prescribed course;

21 (3) require each participant to collect a playing card
22 drawn at random at each location or collect not fewer than five
23 playing cards after visiting all the locations on the course; and

24 (4) determine the game winners by ranking the poker
25 hands formed by each participant's playing cards according to the
26 rules commonly used to rank poker hands or similar rules specified
27 by the organization conducting the poker run.

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

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

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

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

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

12 (4) was permitted under the Texas Racing Act (Article
13 179e, Vernon's Texas Civil Statutes); ~~or~~

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

18 (6) was permitted under Chapter 2004, Occupations
19 Code.

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

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

24 (1) was authorized under:

25 (A) Chapter 2001, Occupations Code;

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

27 (C) the Texas Racing Act (Article 179e, Vernon's

1 Texas Civil Statutes); or

2 (D) Chapter 2004, Occupations Code;

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

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

7 (A) Chapter 466, Government Code;

8 (B) the lottery division of the Texas Lottery
9 Commission;

10 (C) the Texas Lottery Commission; or

11 (D) the director of the lottery division of the
12 Texas Lottery Commission.

13 SECTION 4. (a) The changes in law made by this Act to
14 Sections 47.02(c) and 47.09(a), Penal Code, do not apply to an
15 offense committed before the effective date of this Act. For
16 purposes of this section, an offense is committed before the
17 effective date of this Act if any element of the offense occurs
18 before that date.

19 (b) An offense committed before the effective date of this
20 Act is governed by the law as it existed on the date on which the
21 offense was committed, and the former law is continued in effect for
22 that purpose.

23 SECTION 5. This Act takes effect September 1, 2009.