

By: Menendez

H.B. No. 382

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 2004. POKER GAMING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2004.001. SHORT TITLE; APPLICABILITY. (a) This chapter may be cited as the Poker Gaming Act of 2011.

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

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

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

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

(2) unregulated poker gaming conducted by unlicensed operators in public establishments is inimical to the public 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 fee assessed on each
3 communal pot in accordance with Section 2004.461.

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

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

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

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

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

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

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

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

27 (17) "Electronic poker table" means a poker gaming

1 table, including its components, that provides multiple player
2 positions and allows players to play against other players in the
3 same poker game using electronic representations of cards and
4 chips.

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

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

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

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

22 (A) collection fees assessed; and

23 (B) promotion bonus fees assessed.

24 (22) "Licensed nonprofit organization" means a
25 nonprofit organization that holds a license issued by the
26 commission authorizing the organization to benefit from charitable
27 poker tournaments conducted on its behalf.

1 (23) "Licensed operator" means a charitable operator
2 or a commercial operator.

3 (24) "Manufacturer" means:

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

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

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

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

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

23 (B) has tax-exempt status under Section
24 501(c)(3), Internal Revenue Code of 1986.

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

1 Statutes).

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

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

11 (30) "Poker card deck" means a set of 52 cards with 13
12 values and with each card value represented once in each of four
13 suits: spades, hearts, diamonds, and clubs.

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

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

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

27 (34) "Principal manager" means a person who, in

1 accordance with commission rules, holds or exercises managerial,
2 supervisory, or policy-making authority over the management or
3 operation of a poker gaming activity that, in the commission's
4 judgment, warrants employee licensing as a principal manager for
5 the protection of the public interest. The term includes a key
6 executive of a holder of a license issued under this chapter that is
7 a company and each person controlling the holder that is a company.

8 (35) "Promotion bonus fee" means the fee assessed on
9 each communal pot for bonus programs in accordance with Section
10 2004.460.

11 (36) "Wager" means a bet.

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

15 [Sections 2004.005-2004.050 reserved for expansion]

16 SUBCHAPTER B. COMMISSION POWERS AND DUTIES

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

19 (b) The commission has broad authority and shall exercise
20 strict control and close supervision over all poker gaming
21 conducted in this state to ensure that poker gaming is fairly
22 conducted.

23 (c) The commission shall execute its authority through a
24 poker gaming division established by the commission to administer
25 this chapter.

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

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

3 Sec. 2004.053. OFFICERS AND INVESTIGATORS. The commission
4 may employ officers or investigators the commission considers
5 necessary to administer this chapter.

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

8 Sec. 2004.055. APPROVAL OF POKER GAMING EQUIPMENT. (a) The
9 commission by rule shall provide procedures for the approval of
10 poker gaming equipment for use in poker gaming in this state as
11 authorized under this chapter.

12 (b) The commission may not approve for use in poker gaming
13 in this state an electronic poker table or other electronic device
14 that is capable of displaying an electromechanically or
15 electronically simulated poker game.

16 (c) The holder of a license issued under this chapter may
17 not:

18 (1) use, sell, or distribute poker gaming equipment
19 that has not been approved by the commission; or

20 (2) use, sell, or distribute an electronic poker table
21 or other device described by Subsection (b).

22 Sec. 2004.056. PUBLIC INFORMATION. (a) The commission
23 shall provide to any person on request a printed copy of this
24 chapter and the rules applicable to the enforcement of this
25 chapter.

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

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

4 (b) The commission shall respond to a request under
5 Subsection (a) not later than the 60th day after the date a request
6 is received, unless the commission determines that the request does
7 not contain sufficient facts to provide an answer on which the
8 requestor may rely. The commission shall request any additional
9 information required from the requestor not later than the 10th
10 business day after the date the request is received. If the
11 commission requests additional information, the commission shall
12 respond to the request not later than the 60th day after the date
13 additional information is received pursuant to the request for
14 additional information.

15 (c) A person who requests an advisory opinion under
16 Subsection (a) may act in reliance on the opinion in the conduct of
17 any activity under any license issued under this chapter if the
18 conduct is substantially consistent with the opinion and the facts
19 stated in the request.

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

25 (e) Nothing in this section precludes the commission from
26 requesting an attorney general's opinion under Section 402.042,
27 Government Code. In the event the commission requests an attorney

1 general's opinion on a matter that is the subject of an advisory
2 opinion request under this section, the deadlines established under
3 Subsection (b) are tolled until the 30th day following the date the
4 attorney general's opinion is issued.

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

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

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

11 [Sections 2004.059-2004.100 reserved for expansion]

12 SUBCHAPTER C. LICENSE TO CONDUCT POKER GAMING

13 Sec. 2004.101. OPERATOR'S LICENSE REQUIRED; LOCATION AND
14 TABLE RESTRICTIONS; SEPARATE PERMIT REQUIRED. (a) A person may not
15 conduct poker gaming in the state unless the person holds a
16 charitable operator's license or a commercial operator's license
17 issued by the commission.

18 (b) Poker gaming conducted by a commercial operator,
19 including a charitable poker tournament conducted by the operator
20 to benefit a licensed nonprofit organization, may be conducted only
21 on premises operating in accordance with the operator's license.
22 Poker gaming conducted by a charitable operator may be conducted
23 only at a location specified in a permit authorizing the conduct of
24 a charitable poker tournament. This subsection does not prohibit a
25 person from playing a poker game authorized by other state law.

26 (c) A person may not own an equity interest in a location in
27 this state at which poker gaming is conducted by a commercial

1 operator and for which a commercial operator's license is not in
2 effect.

3 (d) A separate commercial operator's license must be
4 obtained for each location at which poker gaming is conducted by a
5 commercial operator.

6 (e) If a commercial operator is an Indian tribe that holds a
7 license issued under Section 2004.103(a)(1)(B), the location at
8 which poker gaming is conducted under the license must be on the
9 tribe's reservation in this state.

10 (f) The commission by rule shall prescribe the maximum
11 number of poker gaming tables a commercial operator may operate at a
12 single location licensed by the commission.

13 (g) A separate permit must be obtained for each charitable
14 poker tournament conducted by a licensed operator.

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

16 (a) In accordance with commission rules, an applicant for a
17 commercial operator's license shall file with the commission an
18 application that contains the information identified in
19 Subsections (b) and (c) and any additional information the
20 commission requires to determine the suitability and eligibility of
21 the applicant to conduct poker gaming in this state.

22 (b) The application must include:

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

24 (2) the names and addresses of the officers of a
25 company applicant;

26 (3) the name and address of the person that owns the
27 premises where the applicant intends to conduct poker gaming under

1 the license sought;

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

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

8 (6) for a pari-mutuel license holder applicant, the
9 number of poker tables requested for the holder's horse or
10 greyhound racetrack; and

11 (7) a financial statement certified by a certified
12 public accountant demonstrating that the applicant holds gross
13 capital assets, including land and buildings, of at least \$1
14 million.

15 (c) An applicant, other than an applicant described by
16 Section 2004.103(a)(1)(B), must attach to the application a copy
17 of:

18 (1) each license or permit the applicant holds issued
19 by the Texas Alcoholic Beverage Commission authorizing the
20 applicant to sell or serve distilled spirits for on-premises
21 consumption; or

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

23 Sec. 2004.103. COMMERCIAL OPERATOR'S LICENSE: MANDATORY
24 ISSUANCE; CONTINUED SUITABILITY. (a) The commission shall issue a
25 commercial operator's license to an applicant that:

26 (1) meets one of the following requirements:

27 (A) holds:

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

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

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

10 (2) files the application in accordance with this
11 chapter;

12 (3) signs the application;

13 (4) pays the required application fee; and

14 (5) meets any additional requirements prescribed by
15 the commission.

16 (b) A person may not apply for a license under Subsection
17 (a)(1)(A)(i) unless for at least one of the three months preceding
18 the date of the application the person paid mixed beverage taxes
19 under Subchapter B, Chapter 183, Tax Code, on the gross receipts for
20 the premises where the person intends to conduct poker gaming in an
21 amount of at least:

22 (1) \$7,500 for premises located in a municipality with
23 a population of at least 100,000; or

24 (2) \$2,500 for premises to which Subdivision (1) does
25 not apply.

26 (c) Subsection (b) does not prohibit a person from applying
27 for and receiving a commercial operator's license if the person is

1 otherwise eligible for the license under Subsection (a)(1)(A)(ii)
2 or (a)(1)(B).

3 (d) If video surveillance is required under Section
4 2004.468, the commission may not issue a commercial operator's
5 license to an applicant unless the applicant provides the video
6 surveillance equipment required by that section.

7 (e) The commission may adopt rules providing for a person's
8 continued suitability to hold a commercial operator's license.

9 (f) The opportunity to hold a commercial operator's license
10 is a revocable privilege and not a right or property under the
11 United States Constitution or the Texas Constitution. An applicant
12 for or holder of a commercial operator's license does not have a
13 vested interest or right in a license granted under this chapter.

14 Sec. 2004.104. CHARITABLE OPERATOR'S LICENSE APPLICATION.

15 (a) In accordance with commission rules, an applicant for a
16 charitable operator's license shall file with the commission an
17 application that contains the information identified in Subsection
18 (b) and any additional information the commission requires to
19 determine the suitability and eligibility of the applicant to
20 conduct poker gaming in this state.

21 (b) The application must include:

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

23 (2) the names and addresses of the officers of an
24 applicant;

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

1 (4) the address of the premises where the applicant
2 intends to conduct charitable poker gaming under the license
3 sought; and

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

8 Sec. 2004.105. SUITABILITY TO HOLD CHARITABLE OPERATOR'S
9 LICENSE; REVOCABLE PRIVILEGE. (a) The commission shall determine
10 the suitability of an applicant for or holder of a charitable
11 operator's license based on suitability criteria prescribed by the
12 commission. The commission shall adopt the rules and standards
13 necessary to ensure that an applicant for a charitable operator's
14 license or a charitable operator uses the revenue from a charitable
15 poker tournament for bona fide charitable purposes.

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

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

22 (d) The commission may adopt rules providing for a person's
23 continued suitability to hold a charitable operator's license and
24 providing for the imposition of sanctions and penalties against a
25 person who does not comply with this chapter or rules adopted under
26 this chapter.

27 (e) The opportunity to hold a charitable operator's license

1 is a revocable privilege and not a right or property under the
2 United States Constitution or the Texas Constitution. An applicant
3 for or holder of a charitable operator's license does not have a
4 vested interest or right in a license granted under this chapter.

5 Sec. 2004.106. NONTRANSFERABILITY. A commercial
6 operator's license applies only to the specific premises location
7 identified in the license and is not transferable to another person
8 or location.

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

13 (1) register and qualify with the commission under
14 commission rules; and

15 (2) provide information the commission finds
16 necessary to determine the suitability and eligibility of the
17 person to retain the interest.

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

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

22 (2) an institutional investor; or

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

25 (c) The commission shall adopt rules to implement this
26 section, including rules establishing procedures for registration
27 application, qualification, and renewal. A registration filed

1 under this section must be accompanied by the required application
2 fee.

3 Sec. 2004.108. COMMERCIAL OPERATOR LICENSE CONTINGENT ON
4 ALCOHOLIC BEVERAGE LICENSE OR PERMIT OR PARI-MUTUEL LICENSE. (a) A
5 commercial operator, other than an operator described by Section
6 2004.103(a)(1)(B), must at all times hold:

7 (1) an active alcoholic beverage license or permit
8 issued by the Texas Alcoholic Beverage Commission authorizing the
9 operator to sell or serve distilled spirits for on-premises
10 consumption; or

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

14 (b) The commission shall revoke a commercial operator's
15 license issued under Section 2004.103(a)(1)(A) if the operator's
16 license or permit described by Subsection (a) is canceled or
17 revoked and the operator does not hold another license or permit
18 described by Subsection (a).

19 (c) A commercial operator shall immediately notify the
20 commission on the expiration or suspension, cancellation, or
21 revocation by the Texas Alcoholic Beverage Commission of any
22 license or permit authorizing the operator to sell or serve
23 distilled spirits on the premises licensed by the commission. The
24 Texas Alcoholic Beverage Commission shall notify the commission
25 when it suspends, cancels, or revokes a license or permit
26 authorizing a commercial operator to sell or serve distilled
27 spirits.

1 (d) A commercial operator shall immediately notify the
2 commission on the expiration or suspension, cancellation, or
3 revocation by the Texas Racing Commission of any pari-mutuel
4 license held by the commercial operator authorizing the operator to
5 conduct wagering on a greyhound race or a horse race. The Texas
6 Racing Commission shall notify the commission when the Texas Racing
7 Commission suspends, cancels, or revokes a pari-mutuel license
8 authorizing a commercial operator to conduct wagering on a
9 greyhound race or a horse race.

10 (e) A commercial operator's license under this chapter is
11 suspended at any time when any alcoholic beverage license or permit
12 to sell or serve distilled spirits held by the operator is
13 suspended.

14 (f) The commission shall adopt rules for temporary
15 suspension of a commercial operator's license pending reissuance of
16 the license or permit to sell or serve distilled spirits on the
17 premises licensed by the commission.

18 [Sections 2004.109-2004.150 reserved for expansion]

19 SUBCHAPTER D. NONPROFIT ORGANIZATION LICENSE; CHARITABLE POKER

20 TOURNAMENT PERMIT

21 Sec. 2004.151. LICENSE REQUIRED. (a) A licensed operator
22 may not conduct a charitable poker tournament to benefit a
23 nonprofit organization unless the organization holds a license
24 issued under this subchapter.

25 (b) A licensed operator shall ensure that each nonprofit
26 organization receiving any portion of the net proceeds of a
27 charitable poker tournament conducted by the operator holds a

1 license issued by the commission under this subchapter.

2 Sec. 2004.152. LICENSE APPLICATION AND ISSUANCE. (a) An
3 applicant for a nonprofit organization license must:

4 (1) submit an application to the commission on the
5 form prescribed by the commission and in accordance with commission
6 rules;

7 (2) present sufficient facts relating to the
8 applicant's incorporation and organization to enable the
9 commission to determine whether the applicant may be licensed under
10 this subchapter; and

11 (3) submit the required application fee.

12 (b) An applicant for a nonprofit organization license
13 shall:

14 (1) sign the application; and

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

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

20 (1) a copy of an Internal Revenue Service letter that
21 approves the applicant's exemption from taxation under Section
22 501(c)(3), Internal Revenue Code of 1986; or

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

27 (d) Not later than the 30th day after the date the

1 commission grants an application for a nonprofit organization
2 license, the commission shall issue the license to the applicant.

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

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

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

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

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

27 Sec. 2004.154. PERMIT FOR CHARITABLE POKER TOURNAMENT. (a)

1 A licensed operator may conduct a charitable poker tournament only
2 for which the operator holds a permit issued under this section.

3 (b) A licensed operator may apply for a permit to conduct a
4 charitable poker tournament by filing an application with the
5 commission on a form prescribed by the commission accompanied by
6 the required fee not later than the 30th day before the date of the
7 charitable poker tournament.

8 (c) The application for a charitable poker tournament
9 permit must:

- 10 (1) be submitted in accordance with commission rules;
11 (2) include the address and dimensions of the facility
12 where the tournament will occur;
13 (3) include the date and hours of the tournament;
14 (4) include the name of each licensed nonprofit
15 organization the tournament will benefit; and
16 (5) include the number of poker tables requested for
17 the tournament.

18 (d) An applicant for a charitable poker tournament permit
19 shall:

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

24 (e) Not later than the 10th day after the date the
25 commission grants an application for a permit, the commission shall
26 deliver the permit to the licensed operator. The permit must state
27 the location, date, hours, and number of tables authorized for the

1 charitable poker tournament. The operator must prominently display
2 the permit at the charitable poker tournament.

3 (f) The permit is valid only for the hours, date, and
4 location specified by the permit.

5 (g) A licensed operator may only operate the number of poker
6 gaming tables specified in the permit at the charitable poker
7 tournament.

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

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

11 (b) A licensed operator shall pay to a licensed nonprofit
12 organization all net proceeds from a charitable poker tournament
13 not later than the 30th day after the date of the tournament. The
14 expenses of conducting the tournament deducted by a licensed
15 operator may not exceed 30 percent of gross receipts. The expenses
16 must be reasonable or necessary to conduct the poker gaming and may
17 include expenses for:

18 (1) advertising, including the cost of printing poker
19 gaming gift certificates;

20 (2) security;

21 (3) repairs to equipment and the premises where the
22 tournament is conducted;

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

25 (5) prizes;

26 (6) taxes in accordance with Subchapter I;

27 (7) rental or mortgage and insurance expenses;

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

3 (9) fees for dealers, cashiers, janitorial services,
4 and utility supplies and services;

5 (10) the permit fee; and

6 (11) debit card transaction fees.

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

9 Sec. 2004.156. DENIAL, SUSPENSION, LIMITATION, OR
10 REVOCAION OF NONPROFIT ORGANIZATION LICENSE. (a) The commission
11 may deny an application for or suspend, limit, or revoke a nonprofit
12 organization's license for any reasonable cause.

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

21 (c) A nonprofit organization that has had a license
22 suspended or revoked may not receive, directly or indirectly, any
23 proceeds, compensation, consideration, or payment of any kind
24 relating to the conduct of a charitable poker tournament, other
25 than a tournament that took place before the suspension or
26 revocation.

27 [Sections 2004.157-2004.200 reserved for expansion]

1 SUBCHAPTER E. EMPLOYEE'S LICENSES

2 Sec. 2004.201. DEALER'S LICENSE REQUIRED. (a) A person may
3 not act as a dealer unless the person holds a dealer's license.

4 (b) A licensed operator shall ensure that each dealer
5 employed by the operator holds a dealer's license issued by the
6 commission.

7 Sec. 2004.202. DEALER'S LICENSE APPLICATION; ISSUANCE AND
8 DISPLAY OF BADGE. (a) A dealer's license application must:

9 (1) be submitted in accordance with commission rules;
10 (2) contain the information the commission requires to
11 determine the applicant's suitability and eligibility to act as a
12 dealer; and

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

14 (b) An applicant for a dealer's license shall:

15 (1) sign the application; and
16 (2) attest under penalties of perjury that the
17 information contained in the application is true, correct, and
18 complete.

19 (c) The commission shall conduct a criminal background
20 check on each applicant for a dealer's license.

21 (d) Not later than the 60th day after the date the
22 commission grants an application for a dealer's license, the
23 commission shall issue a dealer's badge to the applicant.

24 (e) A licensed dealer must prominently display on the
25 dealer's person the badge issued by the commission at all times when
26 the dealer is on the premises of a licensed operator as an employee
27 of the licensed operator.

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

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

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

10 (2) has not had a complaint alleging physical
11 intimidation filed against the applicant or dealer with a law
12 enforcement authority;

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

16 (4) is otherwise qualified to be licensed.

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

19 Sec. 2004.205. DENIAL, SUSPENSION, LIMITATION, OR
20 REVOCAION OF DEALER'S LICENSE. (a) The commission may deny an
21 application for or suspend, limit, or revoke a dealer's license for
22 any reasonable cause.

23 (b) If the commission determines it has reasonable grounds
24 to believe that a licensed dealer might be unsuitable to continue to
25 hold the license, for protection of the public health, safety,
26 morals, and general welfare of the people of this state and of the
27 reputation of this state's poker gaming industry, the commission

1 shall conduct an investigation and hearing as provided by
2 Subchapter K and, based on the commission's determination, may
3 deny, suspend, limit, or revoke a dealer's license.

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

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

9 (1) receive, directly or indirectly, any
10 compensation, consideration, or payment of any kind relating to the
11 conduct of gaming in any capacity requiring a license under Section
12 2004.201, other than payment for services rendered before the
13 suspension or revocation; or

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

16 (e) The receipt and holding of a dealer's license is a
17 privilege and is not a right or property under the United States
18 Constitution or the Texas Constitution. An applicant for or holder
19 of a dealer's license does not have a vested interest or right in a
20 license granted under this chapter.

21 Sec. 2004.206. TRAINING PROGRAM FOR LICENSED DEALERS. (a)
22 A licensed dealer shall complete a training program in accordance
23 with commission rule.

24 (b) A training program approved by the commission must
25 include training related to:

26 (1) the conduct of poker gaming;

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

1 (3) the promotion of poker gaming; and

2 (4) gaming awareness, including:

3 (A) problem or compulsive gambling;

4 (B) cheating techniques;

5 (C) underage gaming; and

6 (D) criminal awareness.

7 (c) The commission by rule shall establish:

8 (1) the content and time frame of the training
9 program;

10 (2) information related to training that must be
11 reported to the commission; and

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

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

21 (b) A person may not engage in any conduct for which the
22 commission requires a person to hold a license under this section
23 unless the person holds the applicable license.

24 (c) The commission by rule shall prescribe procedures and
25 fees for licenses issued under this section as the commission
26 determines appropriate.

27 [Sections 2004.208-2004.250 reserved for expansion]

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

2 Sec. 2004.251. MANUFACTURER'S LICENSE. (a) A person may
3 not engage in any activity related to the poker gaming equipment
4 manufacturing industry in this state for which a manufacturer's
5 license is required unless the person holds a manufacturer's
6 license for that activity.

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

13 (c) A manufacturer's license is personal to the license
14 holder and allows the holder to conduct business related to the
15 licensed activity with any person licensed to operate poker gaming
16 in this state.

17 Sec. 2004.252. DISTRIBUTOR'S LICENSE. (a) A person may not
18 distribute or offer to distribute poker gaming equipment for use in
19 poker gaming authorized under this chapter in this state unless the
20 person holds a distributor's license under this subchapter.

21 (b) A person must obtain a distributor's license to
22 distribute poker gaming equipment in this state to a licensed
23 operator for use on premises at which poker gaming is conducted for
24 profit.

25 (c) A distributor's license is personal to the license
26 holder and allows the holder to conduct business with any person
27 licensed to operate poker gaming in this state. The license is not

1 transferable.

2 Sec. 2004.253. LICENSE APPLICATION. (a) In accordance
3 with commission rules, an applicant for a manufacturer's license or
4 distributor's license shall file with the commission an application
5 that contains information the commission requires to determine the
6 suitability and eligibility of the applicant.

7 (b) The application must be signed by an applicant that is
8 an individual or by the presiding officer and the secretary of an
9 applicant that is a company. Each signatory shall attest under
10 penalties of perjury that the information contained in the
11 application is true, correct, and complete.

12 (c) An application for a manufacturer's license or
13 distributor's license must be accompanied by the required
14 application fee.

15 Sec. 2004.254. SUITABILITY DETERMINATION; DENIAL,
16 SUSPENSION, LIMITATION, OR REVOCATION OF LICENSE. (a) In
17 considering the suitability of a company applying for or holding a
18 manufacturer's license or distributor's license, the commission
19 shall consider the suitability of each principal manager and each
20 holder of an equity interest or creditor interest in the company
21 applicant to individually receive and hold a manufacturer's license
22 or distributor's license based on the suitability standards that
23 apply to the company applicant. A person may not hold a
24 manufacturer's license or distributor's license if that person
25 would be found unsuitable to hold an operator's license.

26 (b) If the commission determines that it has reasonable
27 grounds to believe an applicant or license holder is unsuitable to

1 hold a manufacturer's license or distributor's license, the
2 commission shall conduct an investigation and hearing under
3 Subchapter K and, based on the commission's determination, may
4 deny, suspend, limit, or revoke the license. If the applicant is an
5 entity other than an individual, the commission may investigate
6 equity owners of the applicant who have at least a 10 percent
7 ownership in the applicant.

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

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

22 (e) The burden of proving suitability to receive or hold a
23 manufacturer's or distributor's license is on the applicant or
24 license holder.

25 [Sections 2004.255-2004.300 reserved for expansion]

26 SUBCHAPTER G. TEMPORARY LICENSE; LICENSE RENEWAL

27 Sec. 2004.301. TEMPORARY LICENSE. (a) Before issuing a

1 license under this chapter, the commission may issue a temporary
2 license for a period not to exceed six months and may renew the
3 temporary license as many times as the commission determines
4 appropriate on the payment of the fee and execution of the bond, if
5 required.

6 (b) The commission may issue a temporary license only to a
7 person the commission believes will be qualified to hold the
8 license based on:

9 (1) the commission's review of the background
10 investigations conducted by other state agencies or other
11 government agencies in United States or Canadian jurisdictions with
12 regulated poker gaming activities; and

13 (2) the commission's determination that the background
14 investigations of the applicant failed to reveal anything that
15 would cause the applicant not to qualify for a license in this
16 state.

17 Sec. 2004.302. LICENSE TERM; RENEWAL. (a) A license issued
18 under this chapter expires on the first anniversary of the date of
19 issuance.

20 (b) A license holder may annually renew a license by
21 complying with the commission's licensing requirements and paying
22 the annual license fee.

23 (c) A license holder shall submit with each license renewal
24 fee a renewal application on a form prescribed by the commission.

25 [Sections 2004.303-2004.350 reserved for expansion]

26 SUBCHAPTER H. APPLICATION AND LICENSE FEES

27 Sec. 2004.351. APPLICATION FEES. (a) Except as provided by

1 Subsection (b), an applicant for a license required by this chapter
2 shall pay an application fee in the amount of:

- 3 (1) \$1,000 for a commercial operator's license;
- 4 (2) \$1,000 for a charitable operator's license;
- 5 (3) \$100 for a nonprofit organization license;
- 6 (4) \$100 for a dealer's license;
- 7 (5) \$250 for a manufacturer's license; or
- 8 (6) \$250 for a distributor's license.

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

12 (c) Application fees are nonrefundable and must:

- 13 (1) be in the form prescribed by the commission; and
- 14 (2) be payable to the commission.

15 (d) The commission shall apply an application fee toward the
16 cost of investigating the applicant's suitability for licensing or
17 qualification under this chapter. The applicant shall pay any
18 costs of investigation incurred in excess of the assessed
19 application fee.

20 Sec. 2004.352. LICENSE FEES. A holder of a license issued
21 under this chapter shall annually pay the commission a license fee
22 in the amount of:

- 23 (1) \$1,000 for a charitable or commercial operator's
24 license;
- 25 (2) \$100 for a dealer's license;
- 26 (3) \$250 for a manufacturer's license;
- 27 (4) \$250 for a distributor's license; or

1 (5) \$100 for a nonprofit organization license.

2 [Sections 2004.353-2004.400 reserved for expansion]

3 SUBCHAPTER I. TAXES

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

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

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

14 (d) The tax rate is five percent of the gross receipts
15 received by a licensed operator during a charitable poker
16 tournament.

17 Sec. 2004.402. PAYMENT AND REPORTING OF TAX. (a) A
18 licensed operator must electronically submit a report of each day's
19 total gross receipts to the comptroller not later than 5 p.m. on the
20 day following the day the gross receipts were collected.

21 (b) The tax is due and payable by the licensed operator to
22 the comptroller not later than the deadline provided by Subsection
23 (a) for the report required by that subsection. The depository used
24 by a licensed operator for deposit of gross receipts taxes due to
25 the comptroller must be a licensed financial institution located in
26 this state. The comptroller may sweep or debit the licensed
27 operator's bank account on a daily basis to collect the gross

1 receipts tax due and payable. A licensed operator may not continue
2 to conduct any poker gaming activity on the operator's premises if,
3 at the time the comptroller sweeps the account, the amount reported
4 under Subsection (a) is not available for collection.

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

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

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

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

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

17 (b) Money in the poker gaming revenue fund may be used only
18 for the following purposes:

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

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

26 (A) 50 percent for grants to municipalities,
27 counties, and nonprofit organizations to support activities

1 relating to:

2 (i) shelter and services for the homeless
3 and the prevention of homelessness;

4 (ii) renovation of shelters for use as
5 homeless shelters;

6 (iii) assistance to the homeless in
7 obtaining permanent housing;

8 (iv) medical and psychological counseling
9 for the homeless; and

10 (v) the supervision, development, and
11 implementation of homeless prevention activities; and

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

14 Sec. 2004.403. FAILURE TO PAY OR REPORT TAX; PENALTIES AND
15 INTEREST. (a) A licensed operator that fails to deposit gross
16 receipts tax due and payable to the comptroller for the gross
17 receipts collected at the operator's premises by the deadline for
18 payment of the tax prescribed by Section 2004.402 may not conduct
19 poker gaming at those premises until the tax is paid.

20 (b) If a person fails to report gross receipts as required
21 by this subchapter or fails to pay to the comptroller taxes imposed
22 under this subchapter later than the second day after the date the
23 report or payment is due, the commission shall compute and
24 determine the amount of taxes required to be paid and shall assess a
25 penalty equal to five percent of the taxes owed. If the payment is
26 not received by the 30th day after the date the gross receipts tax
27 is due, the commission shall assess an additional penalty equal to

1 five percent of the gross receipts tax.

2 (c) A delinquent tax accrues interest at the rate provided
3 by Section 111.060, Tax Code, beginning on the 60th day after the
4 tax due date.

5 (d) Interest at the rate of 10 percent a year attaches to a
6 delinquency penalty imposed under Subsection (b), beginning on the
7 60th day after the date the penalty is imposed.

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

13 (1) the facts contained in the return or report of
14 receipts; or

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

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

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

24 Sec. 2004.405. DETERMINATION IF RETURN NOT MADE. (a) If a
25 licensed operator fails to make a required return or if a person
26 conducts poker gaming without a license issued under this chapter,
27 the commission shall estimate the gross receipts received by the

1 operator or person. The estimate must cover the period:

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

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

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

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

14 Sec. 2004.406. JEOPARDY DETERMINATION. (a) If the
15 commission believes that the collection of a gross receipts tax
16 required to be paid or the amount of a determination under Section
17 2004.405 will be jeopardized by delay, the commission shall make a
18 determination of the amount of the tax required to be collected,
19 noting the finding of jeopardy on the determination. The
20 determined amount is due and payable immediately.

21 (b) If a license holder does not pay the amount specified by
22 a determination on or before the 20th day after the date of service
23 of the determination on the license holder, the amount becomes
24 final at the end of the 20th day unless the license holder files a
25 petition for redetermination on or before the 20th day after
26 service of notice of the determination.

27 (c) A delinquency penalty of 10 percent of the tax and

1 interest at the rate of 10 percent a year attaches to the amount of
2 the tax required to be collected.

3 Sec. 2004.407. APPLICATION OF TAX LAWS. Subtitle B, Title
4 2, Tax Code, applies to the administration, collection, and
5 enforcement of the gross receipts tax imposed under Section
6 2004.401 except as modified by this chapter.

7 Sec. 2004.408. DELINQUENCY: SEIZURE AND SALE. (a) At any
8 time before the third anniversary of the date a person becomes
9 delinquent in the payment of a gross receipts tax imposed under this
10 subchapter, the commission may collect the amount as provided by
11 this section.

12 (b) The commission may order the sheriff or constable for
13 the jurisdiction in which licensed poker gaming tables for which a
14 gross receipts tax is delinquent to conduct the seizure and sale
15 authorized by this section. The sheriff or constable may deduct
16 reasonable expenses from any amount realized by sale of the
17 property.

18 (c) The commission or sheriff or constable shall seize
19 personal or real property of the license holder that is not exempt
20 from execution under the laws of this state and sell the property at
21 public auction to pay the amount of taxes due, any interest or
22 penalties due on those taxes, and any expense incurred in
23 connection with the seizure and sale. Personal property must be
24 seized and sold first, and real property may be seized and sold only
25 if the sale of personal property does not produce an amount
26 sufficient to pay the total amount of taxes, interest, or penalties
27 due. The seizure and sale must be conducted in accordance with

1 applicable state law.

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

9 (1) a cash bond;

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

12 (3) certificates of deposit;

13 (4) certificates of savings;

14 (5) United States treasury bonds; or

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

17 (b) The commission shall set the amount of the security,
18 taking into consideration the amount of money that has or is
19 expected to become due from the licensed operator, based on the
20 number of poker gaming tables to be operated on the operator's
21 premises. The commission may adjust the amount of security
22 required after the licensed operator begins conducting poker gaming
23 on the premises and paying gross receipts taxes.

24 (c) If a license holder fails to pay the gross receipts tax
25 imposed under this subchapter, the commission may notify the
26 license holder and any surety of the delinquency by jeopardy or
27 deficiency determination. If payment is not made when due, the

1 commission may order the forfeit of all or part of the security to
2 cover the amount due.

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

8 [Sections 2004.410-2004.450 reserved for expansion]

9 SUBCHAPTER J. REGULATION OF POKER GAMING OPERATIONS

10 Sec. 2004.451. REGULATION OF POKER GAMING OPERATIONS. The
11 commission shall adopt rules to govern the operation of poker
12 gaming at a licensed operator's premises as the commission
13 determines necessary for the protection of the public health,
14 safety, morals, and general welfare of the people of this state and
15 of the reputation of this state's poker gaming industry.

16 Sec. 2004.452. HOURS OF OPERATION. (a) A licensed operator
17 that holds a license or permit issued by the Texas Alcoholic
18 Beverage Commission to sell or serve distilled spirits for
19 on-premises consumption may conduct poker gaming on the premises
20 covered by the operator's license only during the hours in which the
21 license holder may sell or serve distilled spirits under the
22 alcoholic beverage license or permit.

23 (b) A licensed operator that does not hold a license or
24 permit issued by the Texas Alcoholic Beverage Commission to sell or
25 serve distilled spirits for on-premises consumption may conduct
26 poker gaming on the premises covered by the operator's license at
27 any time.

1 (c) The hours of operation for poker gaming must be clearly
2 posted in the licensed operator's poker gaming area.

3 (d) The commission shall determine the hours of operation
4 for a charitable poker tournament and specify the hours in the
5 permit.

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

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

11 Sec. 2004.454. BANK. A licensed operator shall establish
12 on the operator's premises a bank to convert legal United States
13 tender into chips or tokens and to convert chips or tokens into
14 cash.

15 Sec. 2004.455. USE OF CHIPS OR TOKENS. (a) All poker
16 gaming conducted by a licensed operator shall be conducted using
17 chips or tokens approved by the commission.

18 (b) All chips or tokens must bear the logo of the licensed
19 operator's premises and must be manufactured in a manner designed
20 to substantially decrease the chips' or tokens' susceptibility to
21 counterfeiting. The commission may inspect a licensed operator's
22 chips or tokens to confirm compliance with this section.

23 Sec. 2004.456. USE OF PLAYING CARDS. (a) Poker gaming
24 conducted by a licensed operator shall be played with one or more
25 poker industry standard poker card decks.

26 (b) Each poker card deck used in poker gaming must be sealed
27 with a label indicating the deck was manufactured or distributed by

1 a licensed manufacturer or distributor.

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

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

7 Sec. 2004.457. RULES OF PLAY. All poker rules used in poker
8 gaming conducted by a licensed operator shall be submitted to and
9 approved by the commission.

10 Sec. 2004.458. BOND REQUIREMENT. (a) Each employee of a
11 licensed operator who handles cash, other than an employee employed
12 to sell or serve distilled spirits, must be bonded.

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

15 (1) submit to the commission a copy of the certificate
16 evidencing that the employee has obtained a fidelity bond from a
17 surety company chartered or authorized to conduct business in this
18 state; and

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

21 Sec. 2004.459. BADGES. (a) During the operation of poker
22 gaming, each individual licensed under this chapter shall wear in a
23 prominently visible location on the individual's person a numbered
24 badge issued by the commission.

25 (b) An individual who ceases employment with a licensed
26 operator shall immediately surrender the individual's badge to the
27 operator. Not later than the 10th day after the date the individual

1 surrenders the badge, the licensed operator shall:

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

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

5 (c) Each badge issued to an individual must prominently
6 display on the front of the badge:

7 (1) capital letters identifying the license held by
8 the individual;

9 (2) the first name of the individual;

10 (3) the picture of the individual submitted with the
11 individual's license application;

12 (4) the badge number; and

13 (5) the expiration date of the license.

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

16 Sec. 2004.460. BONUS PROGRAMS. (a) The commission by rule
17 shall establish promotion bonus programs for bad beat hands and
18 other bonus programs. The programs may be statewide or limited to
19 individual premises.

20 (b) Each licensed operator shall:

21 (1) collect promotion bonus fees in accordance with
22 commission rule; and

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

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

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

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

6 (f) A promotion bonus program for bad beat hands or any
7 other bonus program may not be offered for a charitable poker
8 tournament.

9 Sec. 2004.461. COLLECTION FEE. (a) Each licensed operator
10 shall collect a collection fee on each poker hand played. The
11 collection fee may not exceed 10 percent of the communal pot in each
12 hand of poker played, with a maximum of \$4 per hand.

13 (b) The commission shall adopt rules necessary to
14 administer this section.

15 Sec. 2004.462. PROMOTION BONUS FEE. (a) A promotion bonus
16 fee may not exceed \$1 per hand.

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

21 Sec. 2004.463. CONTRIBUTION TO PURSE FUND. (a) A
22 pari-mutuel license holder described by Section
23 2004.103(a)(1)(A)(ii) that conducts poker gaming in this state
24 shall deposit in a purse fund two percent of the license holder's
25 gross receipts from that poker gaming.

26 (b) Money in the purse fund may only be expended in
27 accordance with rules adopted by the Texas Racing Commission under

1 Section 18.09, Texas Racing Act (Article 179e, Vernon's Texas Civil
2 Statutes).

3 Sec. 2004.464. REPORTING REQUIREMENTS. (a) A licensed
4 operator shall keep books and records in a manner that clearly shows
5 the total amount of gross receipts and total deposits made by all
6 poker gaming players.

7 (b) The books and records kept by a licensed operator
8 relating to poker gaming operations are not public information, and
9 publication and dissemination of the materials by the commission
10 are prohibited. The commission may publish and disseminate the
11 total gross receipts of each licensed operator at the frequency and
12 in the level of detail the commission considers appropriate.

13 (c) A licensed operator that is not an individual shall file
14 a report of each change of the operator's officers and directors
15 with the commission. The commission shall, not later than the 90th
16 day after the date of the change, approve or disapprove the change.
17 During the 90-day period, the officer or director is entitled to
18 exercise the powers of the position to which the officer or director
19 was elected or appointed.

20 (d) The commission may require that a licensed operator
21 provide the commission with a copy of the operator's federal income
22 tax return not later than the 30th day after the date the return is
23 filed with the federal government. The federal income tax returns
24 submitted to the commission are not public information, and
25 publication and dissemination of the materials by the commission
26 are prohibited.

27 Sec. 2004.465. EXCLUSION OF PERSONS. (a) The commission by

1 rule shall provide for the maintenance of a list of persons who are
2 to be excluded or ejected from poker gaming premises. The list may
3 include a person whose presence in poker gaming premises is
4 determined by the commission to pose a threat to the interests of
5 this state, to licensed poker gaming, or to both.

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

8 (1) prior conviction of a crime that is a felony in
9 this state or under the laws of the United States or a crime
10 involving moral turpitude or a violation of the gaming laws of a
11 state or the United States; or

12 (2) violation of or conspiracy to violate the
13 provisions of this chapter relating to:

14 (A) the failure to disclose an interest in a
15 licensed operator;

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

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

20 Sec. 2004.466. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) A
21 licensed operator shall adopt an internal control system that:

22 (1) safeguards its assets and revenues, which must
23 include means for recording cash transactions and balances and
24 evidences of indebtedness; and

25 (2) provides for reliable records, accounts, and
26 reports of transactions, operations, and events, including reports
27 to the director and the commission.

1 (b) The internal control system must be designed to
2 reasonably ensure that:

3 (1) assets are safeguarded;

4 (2) financial records are accurate and reliable;

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

7 (4) transactions are recorded adequately to allow
8 proper reporting of poker gaming revenue and of fees and taxes and
9 to maintain accountability for assets;

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

12 (6) recorded accountability for assets is compared
13 with actual assets at reasonable intervals and appropriate action
14 is taken with respect to any discrepancies; and

15 (7) functions, duties, and responsibilities are
16 appropriately segregated and performed in accordance with sound
17 practices by competent, qualified personnel.

18 (c) A licensed operator or an applicant for an operator's
19 license shall describe, in a manner approved or required by the
20 director, the licensed operator's or applicant's administrative and
21 accounting procedures in detail in a written system of internal
22 control. A licensed operator or applicant for an operator's
23 license shall submit a copy of the written system. A written system
24 must include:

25 (1) an organizational chart depicting appropriate
26 segregation of duties and responsibilities;

27 (2) a description of the duties and responsibilities

1 of each position shown on the organizational chart;

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

5 (4) a written statement signed by the licensed
6 operator or applicant's chief financial officer or by the licensed
7 operator or applicant, if an individual, attesting that the system
8 satisfies the requirements of this section;

9 (5) if the written system is submitted by an
10 applicant, a letter from an independent certified public accountant
11 stating that the applicant's written system has been reviewed by
12 the certified public accountant and complies with the requirements
13 of this section; and

14 (6) other items the director may require.

15 (d) The commission shall adopt minimum standards for
16 internal control procedures.

17 Sec. 2004.467. AGE REQUIREMENTS. A person younger than 21
18 years of age may not:

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

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

23 Sec. 2004.468. VIDEO SURVEILLANCE AND DISPUTE RESOLUTION.

24 (a) Except as provided by commission rule for a charitable poker
25 tournament, each licensed operator shall provide video
26 surveillance of the poker gaming conducted at each poker gaming
27 table as follows:

1 (1) at least two video surveillance cameras must be
2 dedicated to each poker gaming table;

3 (2) the video cameras must have a clear, unobstructed
4 view of the communal cards, chips, and dealers' hands; and

5 (3) the video records must be maintained for at least
6 30 days unless a notice is received from the commission under
7 Subsection (c), in which case the video surveillance tape recording
8 must be maintained until the commission notifies the operator that
9 the dispute has been resolved.

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

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

21 (d) The commission shall adopt rules and develop forms for
22 use by players for resolution of complaints submitted by players
23 under this section.

24 (e) The commission shall establish rules for surveillance
25 at charitable poker tournaments.

26 Sec. 2004.469. QUESTIONING AND DETENTION OF PERSONS. A
27 licensed operator or an employee of the operator may question any

1 person on the poker gaming premises who is suspected of violating
2 this chapter. The licensed operator or the operator's employee is
3 not criminally or civilly liable:

- 4 (1) as a result of the questioning; or
5 (2) for reporting the person suspected of the
6 violation to the director or law enforcement authorities.

7 Sec. 2004.470. SERVICE OF COMPLIMENTARY ALCOHOLIC
8 BEVERAGES PROHIBITED. A licensed operator may not serve
9 complimentary alcoholic beverages to a player on the operator's
10 poker gaming premises.

11 [Sections 2004.471-2004.500 reserved for expansion]

12 SUBCHAPTER K. ENFORCEMENT

13 Sec. 2004.501. INVESTIGATION. The commission may conduct
14 an appropriate investigation to:

15 (1) determine whether this chapter or a commission
16 rule was violated;

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

20 (3) aid in adopting rules;

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

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

26 Sec. 2004.502. AUDIT. (a) The commission may conduct an
27 audit of a license holder's books and records as part of an

1 investigation.

2 (b) If a recomputation of tax under Section 2004.404 is at
3 issue, the commission shall conduct an audit.

4 Sec. 2004.503. COMPLAINT. (a) If after an investigation
5 the commission is satisfied that a license, certificate of
6 registration, finding of suitability, or prior approval by the
7 commission of a transaction for which approval was required or
8 authorized under this chapter should be limited, conditioned,
9 suspended, or revoked, or that a fine should be imposed, the
10 executive director shall:

11 (1) initiate a hearing by filing a complaint with the
12 commission; and

13 (2) transmit a summary of evidence that bears on the
14 matter and the transcript of testimony at an investigative hearing
15 conducted by or on behalf of the executive director regarding the
16 matter.

17 (b) The complaint must:

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

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

23 (3) contain a factual allegation; and

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

26 (c) On the filing of the complaint, the executive director
27 shall serve a copy of the complaint on the respondent either

1 personally or by registered or certified mail at the respondent's
2 address on file with the executive director.

3 (d) The respondent must file an answer with the executive
4 director not later than the 30th day after the date the complaint is
5 served.

6 Sec. 2004.504. HEARING. (a) On receipt of a complaint
7 under this subchapter, the commission shall review all matter
8 presented in support of the complaint and shall appoint a hearing
9 examiner to conduct further proceedings.

10 (b) The hearing examiner shall conduct proceedings under
11 Chapter 2001, Government Code. After the proceedings, the hearing
12 examiner may recommend that the commission take any appropriate
13 action, including revocation, suspension, limitation, or
14 conditioning of a license, certificate of registration, finding of
15 suitability, or prior approval or imposition of a fine not to exceed
16 \$5,000 for each violation.

17 (c) The commission shall review the recommendation. The
18 commission may remand the case to the hearing examiner for
19 presentation of additional evidence on a showing of good cause as to
20 why the evidence could not have been presented at the previous
21 hearing.

22 (d) The commission shall accept, reject, or modify the
23 recommendation.

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

27 (f) A limitation, condition, revocation, suspension, or

1 fine imposed is effective according to its terms until reversed
2 following judicial review, except that the commission may stay its
3 order pending a rehearing or judicial review on terms and
4 conditions the commission considers proper.

5 Sec. 2004.505. JUDICIAL REVIEW. Judicial review of an
6 order or decision of the commission may be made under Chapter 2001,
7 Government Code. Judicial review is under the substantial evidence
8 rule.

9 Sec. 2004.506. PRIVILEGED DOCUMENTS. (a) A communication
10 or document of an applicant or license holder that is required by
11 law or commission rule or by a subpoena issued by the commission and
12 that is to be made or transmitted to the commission is privileged
13 and does not impose liability for defamation or constitute a ground
14 for recovery in a civil action.

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

18 (c) Notwithstanding the powers granted to the commission by
19 this chapter, the commission:

20 (1) may not release or disclose privileged
21 information, documents, or communications provided by an applicant
22 or license holder and required by a court order after timely notice
23 of the proceedings has been given to the applicant or license holder
24 without the prior written consent of the applicant or license
25 holder;

26 (2) shall maintain all privileged information,
27 documents, and communications in a secure place accessible only to

1 commission members and the executive director; and

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

5 Sec. 2004.507. RELEASE OF CONFIDENTIAL INFORMATION. (a)

6 An application to a court for an order requiring the commission to
7 release any confidential information shall be made only on a
8 written motion delivered not later than the 10th day before the date
9 of application to the commission, the attorney general, and all
10 persons who may be affected by the entry of the order.

11 (b) Copies of the motion and all papers filed in support of
12 the motion shall be served with the notice by delivering a copy in
13 person or by certified mail to the last known address of the person
14 to be served.

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

17 (1) suspend, limit, or condition a license or finding
18 of suitability; or

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

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

25 (1) a license holder or person found suitable has
26 wilfully failed to report, pay, or truthfully account for a fee,
27 tax, or other amount imposed under this chapter or wilfully

1 attempted in any manner to evade or defeat a fee, tax, or other
2 payment;

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

4 (3) the action is necessary for the immediate
5 preservation of the public peace, health, safety, morals, good
6 order, or general welfare.

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

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

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

23 (f) Not later than the fifth day after the date of issuance
24 of an emergency order, the executive director shall file a
25 complaint and serve it on the person involved. The person against
26 whom the emergency order has been issued and served is entitled to a
27 hearing before the commission and to judicial review of the

1 decision and order of the commission under Chapter 2001, Government
2 Code. Judicial review is under the substantial evidence rule.

3 Sec. 2004.509. ACCESS TO CRIMINAL HISTORY RECORD
4 INFORMATION. (a) The commission, the executive director, and the
5 director are entitled to conduct an investigation of and obtain
6 criminal history record information maintained by the Department of
7 Public Safety, the Federal Bureau of Investigation identification
8 division, or another law enforcement agency to assist in the
9 investigation of:

10 (1) a licensed operator or an applicant for an
11 operator's license;

12 (2) a person required to be named in a license
13 application;

14 (3) an employee of a licensed operator, if the
15 employee is or will be directly involved in poker gaming
16 operations;

17 (4) a person who manufactures or distributes poker
18 gaming equipment, or a representative of a person who manufactures
19 or distributes poker gaming equipment or supplies offered to a
20 poker card room;

21 (5) a dealer or other employee license holder or
22 applicant;

23 (6) a registered owner of an equity or creditor
24 interest in a licensed operator or an applicant for such a
25 registration;

26 (7) a licensed nonprofit organization or an applicant
27 for a nonprofit organization license; or

1 (8) if a person described in another subdivision of
2 this subsection is not an individual, an individual who:

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

4 (B) holds more than 10 percent of the stock in the
5 person;

6 (C) holds an equitable interest greater than 10
7 percent in the person;

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

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

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

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

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

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

24 (c) Not later than the first anniversary after the date of
25 each license renewal, the commission shall obtain criminal history
26 record information maintained by the Department of Public Safety on
27 each licensed dealer or other employee, manufacturer, or

1 distributor.

2 Sec. 2004.510. FINGERPRINTS. The commission may deny an
3 application for a license or certificate of registration or the
4 commission may suspend or revoke a license or certificate of
5 registration if the applicant fails on request to provide a
6 complete legible set of fingerprints of a person required to be
7 named in a license application.

8 Sec. 2004.511. DEPARTMENT OF PUBLIC SAFETY ASSISTANCE;
9 COSTS OF INVESTIGATION. (a) The executive director or the director
10 may request the cooperation of the Department of Public Safety to
11 perform a background investigation of a person listed in Section
12 2004.509. The commission shall reimburse the department for the
13 actual cost of an investigation.

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

23 (c) Unless otherwise prohibited by law, the Department of
24 Public Safety may retain any record or information submitted to it
25 under this section. The department shall notify the executive
26 director or the director of any change in information provided to
27 the executive director or the director when the department learns

1 of the change.

2 [Sections 2004.512-2004.550 reserved for expansion]

3 SUBCHAPTER L. PENALTIES AND OFFENSES

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

7 (b) A person failing to timely pay a fee when due shall pay
8 in addition a penalty of not less than \$50 or 25 percent of the
9 amount due, whichever is greater. The penalty may not exceed \$1,000
10 if the fee is less than 10 days late and may not exceed \$5,000 under
11 any circumstances. The penalty shall be collected in the same
12 manner as other charges, license fees, and penalties under this
13 chapter.

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

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

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

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

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

24 (2) places, increases, or decreases a bet or
25 determines the course of play after acquiring knowledge, not
26 available to all players, of the outcome of the game or an event
27 that affects the outcome of the game or that is the subject of the

1 bet or aids anyone in acquiring such knowledge for the purpose of
2 placing, increasing, or decreasing a bet or determining the course
3 of play contingent on that event or outcome;

4 (3) claims, collects, or takes, or attempts to claim,
5 collect, or take, money or any thing of value in or from a poker
6 game, with intent to defraud, without having made a wager
7 contingent on the poker game, or claims, collects, or takes an
8 amount greater than the amount won;

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

13 (5) manipulates, with the intent to cheat, a component
14 of poker gaming equipment in a manner contrary to the designed and
15 normal operational purpose for the component, with knowledge that
16 the manipulation affects the conduct or outcome of a poker game or
17 with knowledge of an event that affects the outcome of the game.

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

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

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

26 (2) analyzing the probability of the occurrence of an
27 event relating to the game.

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

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

7 (b) A person commits an offense if the person, in playing a
8 poker game designed to be played with chips or tokens approved by
9 the commission:

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

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

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

20 (d) A person, other than an authorized employee of a
21 licensed operator acting in furtherance of the person's employment
22 in an establishment, commits an offense if the person knowingly has
23 on the person's body or in the person's possession on or off the
24 premises a key or device known to have been designed for the purpose
25 of and suitable for opening, entering, or affecting the operation
26 of a poker gaming table, a drop box, or a device connected to the
27 table or box or for removing money or other contents from the table

1 or box.

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

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

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

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

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

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

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

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

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

23 Sec. 2004.559. UNLAWFUL MANUFACTURE, SALE, OR DISTRIBUTION
24 OF POKER GAMING EQUIPMENT. (a) A person commits an offense if the
25 person manufactures, sells, or distributes poker tables, cards,
26 chips, or a device intended for use in violating this chapter.

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

1 or otherwise modifies any cards, chips, tokens, or poker gaming
2 device in a manner that:

3 (1) affects the result of a wager by determining win or
4 loss; or

5 (2) alters the normal criteria of random selection
6 that affect the operation of a game or determine the outcome of a
7 game.

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

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

15 Sec. 2004.560. REPORTING PENALTIES. (a) A person commits
16 an offense if the person, in a license application, in a book or
17 record required to be maintained by this chapter or a rule adopted
18 under this chapter, or in a report required to be submitted by this
19 chapter or a rule adopted under this chapter:

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

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

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

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

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

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

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

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

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

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

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

22 (1) was permitted under Chapter 2001, Occupations
23 Code;

24 (2) was permitted under Chapter 2002, Occupations
25 Code;

26 (3) consisted entirely of participation in the state
27 lottery authorized by the State Lottery Act (Chapter 466,

1 Government Code);

2 (4) was permitted under the Texas Racing Act (Article
3 179e, Vernon's Texas Civil Statutes); [~~or~~]

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

8 (6) was permitted under Chapter 2004, Occupations
9 Code.

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

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

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

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

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

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

25 (1) was authorized under:

26 (A) Chapter 2001, Occupations Code;

27 (B) Chapter 2002, Occupations Code; [~~or~~]

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

3 (D) Chapter 2004, Occupations Code;

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

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

8 (A) Chapter 466, Government Code;

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

11 (C) the Texas Lottery Commission; or

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

14 SECTION 5. Section 411.108, Government Code, is amended by
15 adding Subsection (a-2) and amending Subsection (b) to read as
16 follows:

17 (a-2) The Texas Lottery Commission is entitled to obtain
18 from the department criminal history record information maintained
19 by the department that relates to a person for whom the commission
20 may request criminal history record information under Section
21 2004.509, Occupations Code.

22 (b) Criminal history record information obtained by the
23 commission under Subsection (a), ~~or~~ (a-1), or (a-2) may not be
24 released or disclosed to any person except on court order or as
25 provided by Subsection (c).

26 SECTION 6. Section 467.035(a), Government Code, is amended
27 to read as follows:

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

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

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

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

8 SECTION 7. Article 18, Texas Racing Act (Article 179e,
9 Vernon's Texas Civil Statutes), is amended by adding Section 18.09
10 to read as follows:

11 Sec. 18.09. POKER GAMING PURSE PROCEEDS. (a) To protect the
12 public and ensure continued support for the horse and greyhound
13 racing industry in this state, the commission shall adopt rules to
14 establish procedures governing the deposit, accounting, audit,
15 investment, and use of money required to be deposited into a purse
16 fund under Section 2004.463, Occupations Code.

17 (b) Other than limited administrative expenses authorized
18 by commission rule, the money deposited into a purse fund under
19 Section 2004.463, Occupations Code, may be used only to promote the
20 horse and greyhound racing industry in this state by providing
21 money for competitive purses.

22 SECTION 8. Not later than January 1, 2012, the Texas Lottery
23 Commission shall adopt the rules, develop the applications and
24 forms, and establish the procedures necessary to implement Chapter
25 2004, Occupations Code, as added by this Act.

26 SECTION 9. This Act takes effect September 1, 2011.