

By: Thompson

H.B. No. 3576

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operation of casino gaming in this state by
3 federally recognized Indian tribes on certain land and by licensed
4 operators at horse and greyhound racetracks and licensed locations;
5 providing penalties.

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

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

9 CHAPTER 2004. CASINO GAMING

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 2004.001. DEFINITIONS. In this chapter:

12 (1) "Casino game" means any game of chance, including
13 a game of chance in which the outcome may be partially determined by
14 skill or ability, that involves the making of a bet, as defined by
15 Section 47.01, Penal Code. The term does not include:

16 (A) conduct authorized under Chapters 2001 and
17 2002;

18 (B) wagering on a horse or greyhound race
19 authorized under the Texas Racing Act (Article 179e, Vernon's Texas
20 Civil Statutes);

21 (C) gambling permitted under Chapter 47, Penal
22 Code; or

23 (D) conduct authorized under Chapter 466,
24 Government Code.

1 (2) "Casino gaming" means the conduct of casino games
2 authorized under this chapter.

3 (3) "Casino gaming manager" means a person certified
4 under this chapter to manage casino gaming operations at a location
5 authorized under this chapter to conduct casino gaming in this
6 state.

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

8 (5) "Executive director" means the executive director
9 of the commission.

10 (6) "Gaming vendor" means a person licensed under this
11 chapter to provide, maintain, manufacture, distribute, sell, or
12 lease casino gaming equipment and services to a person authorized
13 to operate casino gaming in this state.

14 (7) "Indian lands" means lands on which a federally
15 recognized Indian tribe may be authorized to conduct casino gaming
16 under Section 47a, Article III, Texas Constitution.

17 Sec. 2004.002. APPLICABILITY OF FEDERAL LAW. All shipments
18 of casino gaming equipment and devices into, out of, or within this
19 state in connection with casino gaming are legal shipments of the
20 devices and are exempt from the provisions of 15 U.S.C. Sections
21 1171-1178 prohibiting the transportation of gambling devices.

22 [Sections 2004.003-2004.050 reserved for expansion]

23 SUBCHAPTER B. ADMINISTRATION

24 Sec. 2004.051. POWERS AND DUTIES OF COMMISSION AND
25 EXECUTIVE DIRECTOR. (a) The commission and executive director
26 have broad authority and shall exercise strict control over and
27 closely monitor casino gaming in this state to protect the public

1 health, welfare, and safety and ensure integrity, security,
2 honesty, and fairness in the conduct and administration of casino
3 gaming. In connection with casino gaming on Indian lands, the
4 authority of the commission and the executive director under this
5 subsection must be consistent with the applicable gaming compact
6 entered into under Subchapter D.

7 (b) The executive director may contract with or employ a
8 person to perform a function, activity, or service in connection
9 with casino gaming as prescribed by the executive director.

10 (c) The commission shall as necessary to protect the public
11 health and safety:

12 (1) monitor casino gaming operations on a continuing
13 basis;

14 (2) establish standards for:

15 (A) the operation of casino gaming;

16 (B) the provision of casino gaming equipment and
17 services; and

18 (C) the establishment and maintenance of casino
19 gaming facilities; and

20 (3) inspect and examine all gaming facilities,
21 equipment, services, records, and operations to ensure compliance
22 with the standards established by the commission.

23 (d) The commission may demand access to and inspect,
24 examine, and audit all records regarding gross revenue of casino
25 gaming operations of an Indian tribe authorized to conduct casino
26 gaming under this chapter.

27 Sec. 2004.052. RULES AND PROCEDURES. (a) The commission

1 shall adopt all rules necessary to supervise casino gaming in this
2 state, administer this chapter, and ensure the security of casino
3 gaming operations in this state.

4 (b) The commission shall establish procedures for the
5 monitoring and inspection of casino gaming operations as necessary
6 to protect the public health, welfare, and safety and the integrity
7 of this state and to prevent financial loss to this state.

8 Sec. 2004.053. FEES. The commission shall establish the
9 application, certification, and certification renewal fees for
10 each type of certification issued under this chapter in amounts
11 reasonable and necessary to cover the state's costs incurred in the
12 administration of this chapter and the regulation of casino gaming.

13 Sec. 2004.054. ANNUAL REPORT. The commission shall make an
14 annual report to the governor, the comptroller, and the legislature
15 that provides a summary of casino gaming revenues and expenses for
16 the state fiscal year preceding the report. The report must be in
17 the form and reported at the time provided by the General
18 Appropriations Act.

19 Sec. 2004.055. INVESTIGATIONS. (a) The commission may
20 investigate a violation or alleged violation of this chapter by any
21 person.

22 (b) The Department of Public Safety may investigate a
23 violation or alleged violation of the penal laws of this state in
24 connection with the administration of this chapter, the regulation
25 of casino gaming, or the conduct of casino gaming by a person
26 authorized to operate casino gaming under this chapter.

27 [Sections 2004.056-2004.100 reserved for expansion]

SUBCHAPTER C. CASINO GAMING

Sec. 2004.101. AUTHORIZATION OF CASINO GAMING. Casino gaming may be conducted in this state only:

(1) by a federally recognized Indian tribe that may be authorized to operate casino games under Section 47a, Article III, Texas Constitution; and

(2) on the tribe's Indian lands in this state.

Sec. 2004.102. CERTIFICATES REQUIRED. (a) A person may not provide, maintain, manufacture, distribute, sell, or lease casino games or casino gaming equipment or services for use in this state unless the person holds a gaming vendor certificate issued under this chapter.

(b) A person may not act as a casino gaming manager for a gaming facility in this state unless the person holds a casino gaming manager certificate issued under this chapter.

(c) Unless the person holds the required gaming employee license, a person may not act as a gaming employee in any gaming employee position for which the commission by rule requires a person to hold a certificate issued under this chapter.

Sec. 2004.103. GAMING VENDOR CERTIFICATE. (a) The commission shall issue a gaming vendor certificate to an eligible person with the resources and experience required to provide casino games or casino gaming equipment and services for casino gaming operations authorized under this chapter.

(b) The commission by rule shall establish the minimum qualifications for a gaming vendor certificate to ensure a competitive market for casino gaming equipment and services and the

1 availability of reliable casino gaming equipment and services,
2 consistent with the health and safety of the public.

3 Sec. 2004.104. CASINO GAMING MANAGER CERTIFICATE. (a) The
4 commission shall issue a casino gaming manager certificate to an
5 eligible person with the qualifications and experience required to
6 manage casino gaming operations under this chapter.

7 (b) The commission by rule shall establish the minimum
8 qualifications for a casino gaming manager certificate necessary to
9 protect the health and safety of the public.

10 Sec. 2004.105. GAMING EMPLOYEE CERTIFICATE. The commission
11 by rule and as necessary to protect the health and safety of the
12 public may establish other gaming employee positions that require a
13 certificate issued under this chapter to act in those positions.

14 Sec. 2004.106. BACKGROUND INVESTIGATIONS. (a) Before
15 issuing a certificate to a person under this chapter, the
16 commission shall conduct a background investigation that includes
17 obtaining criminal history record information of the person seeking
18 the certificate to assist the commission in determining the
19 person's eligibility or suitability for the certificate.

20 (b) The Department of Public Safety may enter into an
21 agreement with an Indian tribe to conduct background investigations
22 for the tribe related to casino gaming.

23 Sec. 2004.107. LICENSED RACETRACKS AND OPERATORS.
24 Notwithstanding any other law, the commission may adopt rules to
25 authorize the operation of casino gaming by:

26 (1) persons licensed in this state to operate a horse
27 or greyhound racetrack at which pari-mutuel wagering on horse or

1 greyhound racing is authorized only at the location for which the
2 person is licensed to conduct pari-mutuel wagering; or

3 (2) persons licensed in this state to operate casino
4 gaming at other licensed locations.

5 [Sections 2004.108-2004.150 reserved for expansion]

6 SUBCHAPTER D. COMPACT

7 Sec. 2004.151. COMPACT WITH FEDERALLY RECOGNIZED INDIAN
8 TRIBE. (a) As authorized by Section 47a, Article III, Texas
9 Constitution, notwithstanding any other law, the chairman of a
10 federally recognized Indian tribe may execute a gaming compact
11 containing the terms set forth in Subsection (b) on receipt of a
12 duly enacted resolution of the governing body of the tribe
13 authorizing the chairman to execute the compact and on submission
14 of a copy of the resolution to the secretary of state. The
15 secretary of state is not required to take any further action before
16 the gaming compact becomes effective. The executed gaming compact
17 between the state and the tribe is intended to fulfill tribal-state
18 compact requirements under the Indian Gaming Regulatory Act (25
19 U.S.C. Section 2710(d)). The tribe is responsible for submitting a
20 copy of the executed agreement to:

21 (1) the Texas secretary of state; and

22 (2) the United States secretary of the interior for
23 approval and publication in the Federal Register.

24 (b) The gaming compact described by Subsection (a) must be
25 in substantially the following form:

26 GAMING COMPACT BETWEEN [Insert name of TRIBE] AND THE STATE OF TEXAS

27 This Compact is entered into between the [Insert name of

1 Tribel], a federally recognized Indian Tribe, and the State of
2 Texas, authorizing the operation of casino games (as defined
3 herein) on the Tribe's Indian lands as defined in Part III of this
4 Compact.

5 PART I. TITLE

6 This document shall be referred to as the "[Insert name of
7 Tribel] and State of Texas Gaming Compact."

8 PART II. RECITALS

9 1. The Tribe is a federally recognized tribal government
10 with sovereign powers and rights of self-government.

11 2. The State is a state of the United States possessing the
12 sovereign powers and rights of a state.

13 3. The State and the Tribe maintain a
14 government-to-government relationship, and this Compact will
15 foster mutual respect and understanding between those governments.

16 4. The Tribe and the State jointly intend to protect the
17 integrity of gaming regulated under this Compact.

18 5. The gaming under this Compact will further the purposes
19 of promoting tribal economic development, self-sufficiency, and
20 strong tribal government.

21 PART III. DEFINITIONS

22 In this Compact:

23 A. "Commission" means the Texas Lottery Commission, which
24 is the state governmental agency authorized to carry out the
25 State's regulatory responsibilities under this Compact, or another
26 state agency the State authorizes to carry out the State's
27 regulatory responsibilities under this Compact.

1 B. "Compact" means this gaming compact between the Tribe
2 and the State.

3 C. "Casino Game" or "Casino Gaming Activity" means any game
4 that involves the making of a bet, as defined by Section 47.01,
5 Penal Code, for consideration, including a banking or percentage
6 game played with cards, dice, or a mechanical, electromechanical,
7 or electronic device or machine for money, property, checks,
8 credit, or a representative of value. The term includes roulette,
9 blackjack, craps, poker, slot machines, any other electronic games
10 of chance, and any other casino game permitted by State law for any
11 person.

12 D. "Covered Gaming Employee" means an individual employed
13 and licensed by the Tribe whose responsibilities include providing
14 services related to the operation, maintenance, or management of
15 Casino Games. The term includes:

- 16 1. managers and assistant managers;
- 17 2. accounting personnel;
- 18 3. surveillance and security personnel;
- 19 4. cashiers, supervisors, and floor personnel;
- 20 5. cage personnel; and
- 21 6. any other employee whose employment duties require
22 or authorize access to restricted areas of a facility.

23 E. "Covered Gaming Vendor" means a person who provides,
24 maintains, manufactures, distributes, sells, or leases casino
25 gaming equipment and services to a Casino Gaming Operation.

26 F. "Document" means a book, a record, an electronic,
27 magnetic, or computer media document, or other written material.

1 G. "Effective Date" means the date on which the Compact
2 becomes effective under Part XIII.A. of this Compact.

3 H. "Casino Gaming Facility" means a building or buildings of
4 the Tribe in which a Casino Game authorized by this Compact is
5 conducted on the Tribe's Indian lands.

6 I. "Casino Gaming Manager" means a person licensed pursuant
7 to this Compact to manage a Casino Gaming Operation at a location
8 authorized to conduct Casino Gaming in the State.

9 J. "Casino Gaming Operation" means the tribal business
10 enterprise that offers and operates Casino Games.

11 K. "Department" means the Department of Public Safety of the
12 State of Texas.

13 L. "Gross Gaming Revenue" means the total receipts from the
14 play of all Casino Games less all prize payouts and participation
15 fees.

16 M. "IGRA" means the Indian Gaming Regulatory Act (Pub. L.
17 No. 100-497).

18 N. "Independent Certified Public Accountant" means an
19 accountant licensed by the State to practice as an independent
20 certified public accountant.

21 O. "Indian lands" means:

22 1. land that was held in trust by the United States on
23 January 1, 2011, for the benefit of the Tribe or an individual
24 member of the Tribe and over which the Tribe exercises governmental
25 power; and

26 2. land that is acquired by the Tribe that is not more
27 than five miles from the border of land described in Part III.O.1.

1 of this Compact.

2 P. "Participation Fee" means a payment made to a supplier on
3 a periodic basis by the Tribe for the right to lease or otherwise
4 offer for play a gaming device that the Tribe does not own for
5 authorized Casino Gaming Activity.

6 Q. "Patron" means a person who is on the premises of a Casino
7 Gaming Facility or who is entering the Tribe's Indian lands for the
8 purpose of playing a Casino Game authorized by this Compact.

9 R. "Rules" means rules adopted by the Commission or the
10 Tribal Regulatory Agency to implement this Compact.

11 S. "State" means the State of Texas.

12 T. "Tribal Regulatory Agency" ("TRA") means the agency
13 designated by the Tribe to exercise regulatory authority pursuant
14 to this Compact.

15 U. "Tribe" means the [Insert name of Tribe], a federally
16 recognized Indian tribe.

17 PART IV. AUTHORIZATION AND LOCATION OF CASINO GAMES

18 The Tribe and State agree that the Tribe is authorized to
19 operate Casino Games in a Casino Gaming Facility on the Tribe's
20 Indian lands in accordance with the provisions of this Compact.

21 PART V. RULES; MINIMUM REQUIREMENTS

22 A. The Tribe is responsible for all duties assigned to the
23 Tribe and the TRA under this Compact. The TRA shall adopt any rules
24 necessary to implement this Compact. The rules must:

25 1. require licensing of Casino Gaming Facilities,
26 Casino Gaming Managers, Covered Gaming Employees, and Covered
27 Gaming Vendors;

1 2. establish minimum Internal Control Standards and
2 require the Tribe to engage an Independent Certified Public
3 Accountant to perform agreed procedures and to report on the Gaming
4 Operation's compliance with those standards;

5 3. establish safeguards against problem gambling;

6 4. require annual audits, including an audit of the
7 Financial Statements of the Casino Gaming Operation by an
8 Independent Certified Public Accountant;

9 5. require the posting of rules for all Casino Games;

10 6. prohibit underage gambling;

11 7. require investigation of all suspected violations
12 of the Compact;

13 8. include procedures for resolving Patron disputes;

14 9. include public health and safety standards that are
15 at least as stringent as applicable federal law; and

16 10. include building codes that are at least as
17 stringent as a building code of the State or a local government in
18 the area of the casino.

19 B. The Commission may adopt the additional rules necessary
20 to ensure proper implementation of this Compact, protect the public
21 health, welfare, and safety, preserve the integrity of the State,
22 the Indian tribe, and any Casino Gaming Operations on Indian lands,
23 and prevent financial loss to the State and the Indian tribe.

24 PART VI. TORT CLAIMS; LIMITED CONSENT TO SUIT

25 A. The Tribe shall ensure that a Patron of a Casino Gaming
26 Facility is afforded due process in seeking just compensation for a
27 tort claim for personal injury or property damage against a Casino

1 Gaming Facility arising out of an incident occurring at a Casino
2 Gaming Facility.

3 B. The Tribe shall maintain public liability insurance in
4 the amount of \$5 million for the express purposes of providing
5 coverage for a tort claim.

6 C. Nothing in this section requires the Tribe to waive its
7 immunity from suit except to the extent of the policy limits
8 required by this part.

9 PART VII. STATE REGULATION AND ENFORCEMENT

10 A. The Commission may audit all records regarding Gross
11 Gaming Revenue of the Casino Gaming Operation, the conduct of any
12 Casino Game, and the Casino Gaming Operation to determine
13 compliance with this Compact.

14 B. An agent of the Commission or the Department may have,
15 without prior notice, unfettered access to all public areas of the
16 Casino Gaming Facility. A Commission or Department agent may also
17 have access to nonpublic areas of the Casino Gaming Facility
18 immediately on giving the TRA notice of the agent's arrival and
19 providing proper photographic identification.

20 C. Subject to this Compact, a Commission agent has the right
21 to review and request a copy of any Document of the Casino Gaming
22 Facility related to the conduct of a Casino Game, including the
23 required annual financial audit, agreed procedures report, and the
24 workpapers of the Independent Certified Public Accountant. The
25 review and copying of Documents must be during normal business
26 hours.

27 D. The Commission may investigate a violation or alleged

1 violation of this Compact. The Department may investigate a
2 violation of the penal laws of this State in connection with the
3 administration of this Compact or the conduct of Casino Gaming by a
4 person authorized to operate Casino Gaming under this Compact.

5 PART VIII. LICENSING

6 A. The TRA shall require completion of an application by any
7 Casino Gaming Manager, Covered Gaming Employee, or Covered Gaming
8 Vendor and shall conduct a background investigation of each
9 applicant to determine whether the applicant is suitable to be
10 licensed for association with the Casino Gaming Operation.
11 Suitability standards shall be established by rules adopted by the
12 TRA and shall protect the integrity of the Casino Gaming Operation
13 and the health and safety of the public.

14 B. The TRA may enter into an agreement with the Department,
15 pursuant to Section 2004.106, Occupations Code, to obtain criminal
16 history record information. The Department shall cooperate in
17 furnishing to the TRA that information, unless doing so would
18 violate any agreement the Department has with a source of the
19 information other than the applicant, or would impair or impede a
20 criminal investigation, or unless the TRA cannot provide sufficient
21 safeguards to assure the Department that the information will
22 remain confidential.

23 C. The Commission may require completion of an application
24 by any Casino Gaming Manager, Covered Gaming Employee, or Covered
25 Gaming Vendor and may conduct a background investigation pursuant
26 to state law to determine whether the Casino Gaming Manager,
27 Covered Gaming Employee, or Covered Gaming Vendor applicant would

1 be suitable to be certified for association with the Casino Gaming
2 Operation. The Commission and the TRA shall cooperate and share
3 information. On completion of the necessary background
4 investigation, the Commission shall issue a notice to the TRA
5 certifying that the Commission determined that the applicant would
6 be suitable, or that the applicant would be unsuitable, for
7 association with the Casino Gaming Operation and, if unsuitable,
8 stating the reasons for unsuitability. The Tribe may not employ,
9 continue to employ, or purchase, lease, or otherwise obtain any
10 gaming equipment or services from any Casino Gaming Manager,
11 Covered Gaming Employee, or Covered Gaming Vendor whose application
12 for certification or for renewal of certification has been denied
13 by the Commission.

14 D. The Casino Gaming Operation and Casino Gaming Facility
15 shall be licensed by the TRA and certified by the Commission in
16 conformance with the requirements of this Compact before the
17 commencement of operation and annually after commencement. Before
18 the initial commencement of the operation, the Commission and the
19 TRA shall verify compliance with this requirement through a joint
20 pre-operation inspection and shall issue a license or
21 certification, as appropriate.

22 E. The Commission shall establish application and
23 certification fees in amounts reasonable and necessary to cover the
24 State's costs incurred in the administration of this Compact.

25 PART IX. PAYMENTS TO THE STATE OF TEXAS

26 A. In consideration of the substantial exclusivity
27 established under this agreement, the Tribe agrees to pay the State

1 a fee derived from the operation of Casino Games in an amount equal
2 to eight percent of the Gross Gaming Revenue received by the Tribe
3 in a calendar year from the play of the Casino Games. The fee is due
4 and payable not later than the 20th day after the last day of the
5 preceding quarter for the revenue received by the Tribe in the
6 preceding quarter and shall be made to the comptroller of public
7 accounts of the State of Texas. The Tribe may direct that, of the
8 eight percent total annual fee, the percentage authorized by
9 Chapter 2004, Occupations Code, be paid by the Tribe to local
10 governments for government services that benefit the general
11 public, including public safety, mitigation of the impacts of
12 gaming, or promotion of commerce and economic development.

13 B. If after the effective date of this Compact state law
14 changes to allow the operation of video lottery terminals, slot
15 machines, or any other forms of Casino Gaming by any person at a
16 location within 70 miles of the Tribe's Indian lands as of the date
17 of the Compact, or if the operation of video lottery terminals, slot
18 machines, or other forms of covered gaming is authorized at a
19 racetrack within 100 miles of the Tribe's Indian lands as of the
20 date of the Compact, other than at a place designated in a
21 racetrack's license issued by the State before January 1, 2011,
22 that is within that 100 miles, the Tribe may cease payments under
23 the revenue sharing provisions required under Part IX.A. of this
24 Compact.

25 PART X. DISPUTE RESOLUTION

26 A dispute under this Compact shall be resolved according to
27 the following procedures:

1 A. A party asserting noncompliance shall serve written
2 notice on the other party, identifying the provision in dispute and
3 the factual basis for the claim. Representatives of the Tribe and
4 State shall meet in an effort to resolve the dispute not later than
5 the 30th day after the date of receipt of notice.

6 B. If the parties are unable to resolve a dispute through
7 the process under Part X.A. of this Compact, notwithstanding any
8 other provision of law, the State or Tribe may bring an action in a
9 federal district court regarding the dispute in a district in which
10 the federal court has venue. If the federal district court declines
11 to exercise jurisdiction, the State or the Tribe may bring the
12 action in state court.

13 C. For purposes of an action based solely on a dispute
14 between the State and the Tribe that arises under this Compact and
15 the enforcement of any judgment resulting from the action, the
16 State and the Tribe expressly waive the right to assert sovereign
17 immunity from suit and from enforcement of any judgment, and
18 consent to be sued in all levels of federal or state court, provided
19 that:

20 1. the dispute is limited solely to issues arising
21 under this Compact;

22 2. the action does not include a claim for monetary
23 damages, other than payment of any money required by the terms of
24 this Compact, and injunctive relief or specific performance
25 enforcing a provision of this Compact requiring the payment of
26 money to the State may be sought; and

27 3. nothing in this Compact may be construed to

1 constitute a waiver of the sovereign immunity of the State or the
2 Tribe with respect to a third party that is made a party or
3 intervenes as a party in such action.

4 D. In the event that intervention, joinder, or other
5 participation by a third party in any action between the State and
6 the Tribe would result in the waiver of the State's or the Tribe's
7 sovereign immunity to the third party's claim, the waiver of the
8 State or the Tribe under this Compact may be revoked.

9 PART XI. FEDERAL APPROVAL

10 A. If at any time the Tribe is subject to IGRA, this Compact
11 is intended to meet the requirements of the IGRA on the effective
12 date of this Compact. Changes to the IGRA after the effective date
13 of this Compact that diminish the rights of the State or Tribe may
14 not be applied to alter the terms of this Compact, except to the
15 extent that federal law mandates that retroactive application
16 without the respective consent of the State or Tribe. If at any
17 time during the term of this Compact the Tribe becomes subject to
18 IGRA, this Compact shall be automatically converted to a
19 tribal-state Compact under 25 U.S.C. Section 2710(d).

20 PART XII. NOTICES

21 A notice required under this Compact must be given by
22 certified mail, return receipt requested, commercial overnight
23 courier service, or personal delivery, to:

24 Texas Secretary of State

25 Capitol Building

26 1100 Congress

27 Austin, TX 78701

1 [Insert Title of Tribal Official]
2 [Insert name of Tribe]
3 [Insert street address of Tribe]
4 [Insert city, state, Zip Code of Tribe]

5 With copies to the general counsel for each party.

6 PART XIII. EFFECTIVE DATE AND TERM

7 A. This Compact is effective on due execution of the Tribe,
8 and if applicable, on approval of the United States Secretary of the
9 Interior as a tribal-state compact under the IGRA either by
10 publication of the notice of approval in the Federal Register or by
11 operation of law under 25 U.S.C. Section 2710(d)(8)(C).

12 B. This Compact has a term of 25 years beginning on the first
13 day of the month following the month in which the Compact becomes
14 effective under Part XIII.A. of this Compact.

15 PART XIV. AMENDMENT OF COMPACT

16 This Compact may be amended on the written agreement of the
17 parties. The Texas Secretary of State is authorized to agree to
18 amendments that are not inconsistent with the purposes of this
19 Compact.

20 PART XV. EXECUTION

21 The [Insert title of Tribal Official] of the [Insert name of
22 Tribe] affirms that the [Insert title of Tribal Official] is duly
23 authorized and has the authority to execute this Compact on behalf
24 of the Tribe.

25 APPROVED:

26 [Insert name of Tribe]_____

1 [Insert title of Tribal Official]

2 DATE:_____

3 State of Texas_____

4 Texas Secretary of State

5 DATE:_____

6 [Sections 2004.152-2004.200 reserved for expansion]

7 SUBCHAPTER E. REVENUE

8 Sec. 2004.201. REVENUE FROM INDIAN TRIBE CASINO GAMING.

9 (a) Except as provided by Subsection (b), a federally recognized
10 Indian tribe that conducts casino gaming in this state, as
11 authorized under Section 47a, Article III, Texas Constitution, and
12 this chapter, shall transfer to the commission in the manner
13 required by commission rule the percentage of gross gaming revenue
14 generated from the casino gaming that is specified by commission
15 rule. The commission shall determine the percentage based on the
16 total costs to this state and to local governments in connection
17 with or as a result of casino gaming operations. The percentage:

18 (1) may not be less than eight percent of the gross
19 gaming revenue; and

20 (2) may be assessed in accordance with the category of
21 casino game from which the gross gaming revenue is derived.

22 (b) A compact under Section 2004.151 must provide for the
23 commission to receive not less than eight percent of the gross
24 gaming revenue generated from casino gaming operated under the
25 compact.

26 Sec. 2004.202. STATE CASINO GAMING ACCOUNT. The state
27 casino gaming account is a special account in the general revenue

1 fund. The account consists of all revenue received by the
2 commission from casino gaming, fees received under this chapter,
3 and all money credited to the account from any other fund or source
4 under law.

5 [Sections 2004.203-2004.250 reserved for expansion]

6 SUBCHAPTER F. OFFENSES; PENALTIES

7 Sec. 2004.251. MANIPULATION OR TAMPERING. (a) A person
8 commits an offense if the person intentionally or knowingly
9 manipulates the outcome of a casino game, the amount of a casino
10 game prize, or the operation of a casino gaming device by physical,
11 electronic, or other means, other than in accordance with
12 commission rules.

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

15 Sec. 2004.252. SALE OF CASINO GAME TO PERSON YOUNGER THAN 18
16 YEARS OF AGE. (a) A casino gaming manager or an employee or agent
17 of a casino gaming manager or an employee, agent, or member of an
18 Indian tribe commits an offense if the person intentionally or
19 knowingly:

20 (1) sells or offers to sell a play of a casino game to
21 an individual the person knows is younger than 18 years of age or
22 permits the individual to purchase a play of a casino game; or

23 (2) pays money or issues a credit slip or other
24 winnings for a play of a casino game to an individual the person
25 knows is younger than 18 years of age.

26 (b) An individual who is younger than 18 years of age
27 commits an offense if the individual:

1 (1) purchases a play of a casino game;

2 (2) accepts money, a credit slip, or other payment of
3 winnings for play of a casino game; or

4 (3) falsely represents the individual to be 18 years
5 of age or older by displaying evidence of age that is false or
6 fraudulent or misrepresents in any way the individual's age in
7 order to purchase a play of a casino game.

8 (c) An offense under Subsection (a) is a Class B
9 misdemeanor.

10 (d) An offense under Subsection (b) is a misdemeanor
11 punishable by a fine not to exceed \$250.

12 Sec. 2004.253. DISCIPLINARY ACTION. (a) The commission
13 may refuse to issue a certificate or may revoke, suspend, or refuse
14 to renew a certificate or may reprimand a certificate holder for a
15 violation of this chapter, other state law, or a rule of the
16 commission.

17 (b) If the commission proposes to take action against a
18 certificate holder or applicant under Subsection (a), the
19 certificate holder or applicant is entitled to notice and a
20 hearing.

21 (c) The commission may place on certificate probation
22 subject to reasonable conditions a person whose certificate is
23 suspended under this section.

24 (d) The commission may summarily suspend a certificate
25 issued under this chapter in the same manner as the commission is
26 authorized to suspend a license under Section 466.160, Government
27 Code, if the commission determines that the action is necessary to

1 maintain the integrity, security, or fairness of casino gaming.

2 (e) The commission by rule shall develop a system for
3 monitoring a certificate holder's compliance with this chapter.

4 Sec. 2004.254. ADMINISTRATIVE PENALTY. (a) The commission
5 may impose an administrative penalty against a person who violates
6 this chapter or a rule or order adopted by the commission under this
7 chapter in the same manner as the commission is authorized to impose
8 an administrative penalty under Subchapter M, Chapter 2001.

9 (b) The amount of the administrative penalty may not exceed
10 \$1,000 for each violation. Each day a violation continues or occurs
11 may be considered a separate violation for purposes of imposing a
12 penalty.

13 (c) In determining the amount of the penalty, the executive
14 director shall consider:

15 (1) the seriousness of the violation, including the
16 nature, circumstances, extent, and gravity of the violation;

17 (2) the history of previous violations;

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

19 (4) efforts to correct the violation; and

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

21 (d) The notice, hearing, and appeal for an administrative
22 penalty assessed under this section shall be provided or conducted
23 in the same manner as notice, hearing, and appeals are provided or
24 conducted under Subchapter M, Chapter 2001.

25 Sec. 2004.255. CIVIL PENALTY. (a) A person who violates
26 this chapter or a rule adopted by the commission under this chapter
27 is liable to the state for a civil penalty not to exceed \$5,000 for

1 each day of violation.

2 (b) At the request of the commission, the attorney general
3 shall bring an action to recover a civil penalty authorized by this
4 section. The attorney general may recover reasonable expenses,
5 including attorney's fees, incurred in recovering the civil
6 penalty.

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

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

11 (1) was permitted under Chapter 2001, Occupations
12 Code;

13 (2) was permitted under Chapter 2002, Occupations
14 Code;

15 (3) was permitted under Chapter 2004, Occupations
16 Code;

17 (4) consisted entirely of participation in the state
18 lottery authorized by [~~the State Lottery Act~~] Chapter 466,
19 Government Code[+];

20 (5) [~~(4)~~] was permitted under the Texas Racing Act
21 (Article 179e, Vernon's Texas Civil Statutes); or

22 (6) [~~(5)~~] consisted entirely of participation in a
23 drawing for the opportunity to participate in a hunting, fishing,
24 or other recreational event conducted by the Parks and Wildlife
25 Department.

26 SECTION 3. Section 47.09, Penal Code, is amended by
27 amending Subsection (a) and adding Subsection (c) to read as

1 follows:

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

4 (1) was authorized under:

5 (A) Chapter 2001, Occupations Code;

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

7 (C) Chapter 2004, Occupations Code; or

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

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

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

14 (A) Chapter 466, Government Code;

15 (B) the lottery division of the Texas Lottery
16 Commission;

17 (C) the Texas Lottery Commission; or

18 (D) the director of the lottery division of the
19 Texas Lottery Commission.

20 (c) Subsection (a)(1)(C) applies to a person manufacturing,
21 possessing, or operating a gambling device under a certificate or
22 other authorization under Chapter 2004, Occupations Code.

23 SECTION 4. Chapter 47, Penal Code, is amended by adding
24 Section 47.095 to read as follows:

25 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
26 a defense to prosecution under this chapter that a person sells,
27 leases, transports, possesses, stores, or manufactures a gambling

1 device with the authorization of the Texas Lottery Commission under
2 Chapter 2004, Occupations Code, for transportation in interstate or
3 foreign commerce.

4 SECTION 5. (a) Not later than December 31, 2011, the Texas
5 Lottery Commission shall adopt the rules necessary to implement
6 casino gaming in accordance with Chapter 2004, Occupations Code, as
7 added by this Act.

8 (b) The Texas Lottery Commission may adopt initial rules for
9 purposes of implementing casino gaming in accordance with Chapter
10 2004, Occupations Code, as added by this Act, that expire not later
11 than May 1, 2012. Chapter 2001, Government Code, does not apply to
12 the adoption of those rules. This subsection expires June 1, 2012.

13 SECTION 6. This Act takes effect December 15, 2011, but only
14 if the constitutional amendment authorizing the operation of casino
15 games in this state by federally recognized Indian tribes on
16 certain land and by licensed operators at horse and greyhound
17 racetracks and licensed locations is approved by the voters. If
18 that amendment is not approved by the voters, this Act has no
19 effect.