

A BILL TO BE ENTITLED

AN ACT

relating to the authorization and regulation of social poker establishments and the duties of the Texas Department of Licensing and Regulation; providing 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. This chapter may be cited as the Social Poker Gaming Act of 2013.

Sec. 2004.002. DEFINITIONS. In this chapter:

(1) "Bet" means an agreement to win or lose money, chips, tokens, or other consideration in a game of poker.

(2) "Department" means the Texas Department of Licensing and Regulation.

(3) "Commission" means the Texas Commission of Licensing and Regulation.

(4) "Player" means a patron who participates in poker on the premises of a social poker establishment.

(5) "Poker" means a card game in which a player physically present in a social poker establishment places a bet based on the highest or lowest ranking hand of cards held by the player or combination of highest and lowest cards held. The term

1 does not include any video, mechanical, electronic, or online  
2 version of poker.

3 (6) "Social poker establishment" means a business or  
4 entity that operates a private food and beverage club and poker  
5 services in which:

6 (A) only registered members of the club may  
7 participate as players in a game of poker;

8 (B) no person receives an economic benefit other  
9 than personal winnings from a bet made during a hand of poker played  
10 at the establishment; and

11 (C) except for the advantage of skill or luck,  
12 the risk of losing and the chance of winning are the same for all  
13 participants.

14 Sec. 2004.003. APPLICABILITY. This chapter does not apply  
15 to the conduct of bingo, charitable raffles, the state lottery, or  
16 greyhound or horse racing.

17 Sec. 2004.004. OTHER GAMING. This chapter does not  
18 authorize the conduct of video poker or casino gambling.

19 Sec. 2004.005. PRIVATE PLACE. For purposes of the  
20 application of this chapter and any other law, a poker game  
21 conducted in a social poker establishment is conducted in a private  
22 place.

23 Sec. 2004.006. REGULATION; LICENSING; ENFORCEMENT. (a) To  
24 protect the public health, safety, and welfare, the commission  
25 shall adopt the rules necessary to implement this chapter. The  
26 rules must be consistent with state and federal law. The department  
27 shall license and regulate each social poker establishment

1 operating in this state in accordance with commission rules.

2 (b) A person may not own or operate a social poker  
3 establishment unless the person holds a license for the  
4 establishment issued under this chapter.

5 (c) A player may not participate in a poker game at a social  
6 poker establishment that is not licensed under this chapter.

7 (d) Chapter 51 applies to licensing, regulation, and  
8 enforcement under this chapter. The department shall assess  
9 against a social poker establishment a civil or administrative  
10 penalty authorized under that chapter for a violation of that  
11 chapter, this chapter, or a commission rule.

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

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

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

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

20 (3) was permitted under Chapter 2004, Occupations  
21 Code;

22 (4) consisted entirely of participation in the state  
23 lottery authorized by the State Lottery Act (Chapter 466,  
24 Government Code);

25 (5) [~~4~~] was permitted under the Texas Racing Act  
26 (Article 179e, Vernon's Texas Civil Statutes); or

27 (6) [~~5~~] consisted entirely of participation in a

1 drawing for the opportunity to participate in a hunting, fishing,  
2 or other recreational event conducted by the Parks and Wildlife  
3 Department.

4 SECTION 3. Section 47.06, Penal Code, is amended by adding  
5 Subsection (f-1) to read as follows:

6 (f-1) It is a defense to prosecution under Subsection (a) or  
7 (c) that the person owned, manufactured, transferred, or possessed  
8 the equipment or paraphernalia related to the play of poker for the  
9 sole purpose of shipping it to a social poker establishment  
10 licensed under Chapter 2004, Occupations Code.

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

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

15 (1) was authorized under:

16 (A) Chapter 2001, Occupations Code;

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

18 (C) Chapter 2004, Occupations Code; or

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

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

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

25 (A) Chapter 466, Government Code;

26 (B) the lottery division of the Texas Lottery  
27 Commission;

1                   (C) the Texas Lottery Commission; or  
2                   (D) the director of the lottery division of the  
3 Texas Lottery Commission.

4           SECTION 5. Not later than January 1, 2014, the Texas  
5 Commission of Licensing and Regulation shall adopt the rules  
6 necessary and the Texas Department of Licensing and Regulation  
7 shall develop the applications and establish the procedures  
8 necessary to implement Chapter 2004, Occupations Code, as added by  
9 this Act.

10          SECTION 6. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2013.