

By: Kuempel

H.B. No. 3529

A BILL TO BE ENTITLED

AN ACT

relating to regulation of certain online poker facilities under federal law.

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. INTERNET GAMING

Sec. 2004.001. PUBLIC POLICY. The legislature finds and declares it to be the public policy of this state that:

(1) online poker is a game predominated by skill;

(2) unregulated Internet gambling conducted by unlicensed operators is inimical to public health, safety, and welfare and good order;

(3) the development of regulated online poker in this state through a licensing program created under federal law will benefit the general welfare of the people of this state by ensuring that online poker play and operations are:

(A) conducted honestly and competitively; and

(B) free from criminal and other corruptive elements;

(4) the conduct of regulated online poker by licensed operators will not harm the people of this state; and

(5) public confidence and trust can be maintained only by nationally uniform and robust regulation of all persons,

1 locations, practices, and activities related to the conduct of
2 online poker.

3 Sec. 2004.002. DEFINITIONS. In this chapter:

4 (1) "Bet" has the meaning assigned by Section 47a,
5 Article III, Texas Constitution.

6 (2) "Internet gambling facility" has the meaning
7 assigned by Section 47a, Article III, Texas Constitution.

8 (3) "Licensed online poker facility" has the meaning
9 assigned by Section 47a, Article III, Texas Constitution.

10 (4) "Online poker" has the meaning assigned by Section
11 47a, Article III, Texas Constitution.

12 (5) "Online poker facility" has the meaning assigned
13 by Section 47a, Article III, Texas Constitution.

14 (6) "Operate" or "operation" means to carry on,
15 maintain, or expose for play.

16 Sec. 2004.003. APPLICABILITY. This chapter does not apply
17 to the conduct of bingo, charitable raffles, the state lottery, or
18 video poker.

19 Sec. 2004.004. REGULATION OF ONLINE POKER UNDER FEDERAL
20 LAW. If a federal law described by Section 47a, Article III, Texas
21 Constitution, is enacted and requires a state agency to implement
22 the federal law, the Texas Lottery Commission shall promptly adopt
23 all rules and procedures necessary to implement the federal law.
24 The commission shall notify the governor of the date on which all
25 rules and procedures are adopted.

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

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

3 (1) was permitted under Chapter 2001, Occupations
4 Code;

5 (2) was permitted under Chapter 2002, Occupations
6 Code;

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

10 (4) was permitted under the Texas Racing Act (Article
11 179e, Vernon's Texas Civil Statutes); ~~or~~

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

16 (6) was permitted under Chapter 2004, Occupations
17 Code.

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

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

24 (1) to the premises of a licensed online poker
25 facility under Chapter 2004, Occupations Code, at which online
26 poker may be operated under the license; or

27 (2) to another jurisdiction where the possession or

1 use of the device, equipment, or paraphernalia was legal.

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

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

6 (1) was authorized under:

7 (A) Chapter 2001, Occupations Code;

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

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

11 (D) Chapter 2004, Occupations Code;

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

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

16 (A) Chapter 466, Government Code;

17 (B) the lottery division of the Texas Lottery
18 Commission;

19 (C) the Texas Lottery Commission; or

20 (D) the director of the lottery division of the
21 Texas Lottery Commission.

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

25 (a-2) The Texas Lottery Commission is entitled to obtain
26 from the department criminal history record information maintained
27 by the department that relates to a person for whom the commission

1 may request criminal history record information under Chapter 2004,
2 Occupations Code.

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

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

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

11 (1) a bingo commercial lessor, bingo distributor, or
12 bingo manufacturer; ~~or~~

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

14 (3) a licensed online poker facility under Chapter
15 2004, Occupations Code.

16 SECTION 7. (a) The change in law made by this Act to
17 Sections 47.02, 47.06, and 47.09, Penal Code, applies only to an
18 offense committed on or after the date on which the Texas Lottery
19 Commission, as required by Section 2004.004, Occupations Code, as
20 added by this Act, notifies the governor that the commission has
21 adopted rules and procedures to implement federal law. An offense
22 committed before that date is governed by the law in effect on the
23 date the offense was committed, and the former law is continued in
24 effect for that purpose.

25 (b) For purposes of this section, an offense was committed
26 before the date specified in Subsection (a) of this section if any
27 element of the offense occurred before that date.

1 SECTION 8. This Act takes effect on the date on which the
2 constitutional amendment proposed by the 83rd Legislature, Regular
3 Session, 2013, to authorize online poker gaming regulated under
4 federal law takes effect. If that amendment is not approved by the
5 voters, this Act has no effect.