

By: Thompson of Harris

H.B. No. 2642

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of charitable bingo and amusement
3 redemption machine game rooms; requiring an occupational permit;
4 authorizing fees; creating civil and administrative penalties.

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

6 ARTICLE 1. REGULATION OF CHARITABLE BINGO

7 SECTION 1.01. Sections 2001.002(13) and (18), Occupations
8 Code, are amended to read as follows:

9 (13) "Gross gaming revenue [~~receipts~~]" means the total
10 amount received from the sale, rental, transfer, or use of bingo
11 cards and entrance fees charged at premises at which bingo is
12 conducted less the amount of cash prizes paid to winners of bingo
13 games.

14 (18) "Net proceeds" means:

15 (A) in relation to the total [~~gross~~] receipts
16 from the conduct of bingo during one or more bingo occasions, the
17 amount remaining after deducting the reasonable sums necessarily
18 and actually expended for expenses under Section 2001.458 and the
19 fee on prizes under Section 2001.502; and

20 (B) in relation to the gross rent or other
21 consideration received by a licensed authorized organization for
22 the use of its premises, fixtures, or equipment by another license
23 holder, the amount remaining after deducting the reasonable sums
24 necessarily and actually expended for any janitorial services and

1 utility supplies directly attributable to the use of the premises,
2 fixtures, or equipment.

3 SECTION 1.02. Section 2001.057(a), Occupations Code, is
4 amended to read as follows:

5 (a) The commission shall ~~may~~ appoint a bingo advisory
6 committee consisting of nine members. The commission shall appoint
7 members representing a balance of interests including
8 representatives of:

9 (1) the public;

10 (2) charities that operate bingo games; ~~and~~

11 (3) commercial and charity lessors that participate in
12 the bingo industry; and

13 (4) distributors.

14 SECTION 1.03. Sections 2001.060(a) and (c), Occupations
15 Code, are amended to read as follows:

16 (a) On or before June 1 of each even-numbered year, the
17 commission shall prepare and deliver to the governor, the
18 lieutenant governor, the speaker of the house of representatives,
19 and the chairs of the standing committees of the senate and house of
20 representatives with primary jurisdiction over charitable bingo a
21 report stating for each of the preceding two calendar years:

22 (1) the total amount of ~~adjusted~~ gross gaming
23 revenue ~~receipts~~ reported by licensed authorized organizations
24 from their bingo operations;

25 (2) the total amount of net proceeds reported by
26 licensed authorized organizations from their bingo operations; and

27 (3) a comparison of the amounts reported under

1 Subdivisions (1) and (2), including the percentage that the net
2 proceeds represents of the [~~adjusted~~] gross gaming revenue
3 [~~receipts~~].

4 (c) For purposes of Subsection (a), the commission shall
5 determine the total amount of net proceeds in a manner that does not
6 include [~~reduce gross receipts by~~] the amount of rent paid for the
7 rental of bingo premises by a licensed authorized organization to
8 another licensed authorized organization if the other organization
9 pays rent for the premises to a licensed commercial lessor.

10 SECTION 1.04. Section 2001.104, Occupations Code, is
11 amended by amending Subsections (a) and (d) and adding Subsection
12 (d-1) to read as follows:

13 (a) The commission shall set the fees for a license to
14 conduct bingo based on the amount of the licensed authorized
15 organization's total receipts derived from the conduct of bingo and
16 in an amount reasonable to defray administrative costs but not less
17 than the following:

18 (1) Class A (annual [~~gross~~] receipts of \$25,000 or
19 less)-\$100;

20 (2) Class B (annual [~~gross~~] receipts of more than
21 \$25,000 but not more than \$50,000)-\$200;

22 (3) Class C (annual [~~gross~~] receipts of more than
23 \$50,000 but not more than \$75,000)-\$300;

24 (4) Class D (annual [~~gross~~] receipts of more than
25 \$75,000 but not more than \$100,000)-\$400;

26 (5) Class E (annual [~~gross~~] receipts of more than
27 \$100,000 but not more than \$150,000)-\$600;

1 (6) Class F (annual [~~gross~~] receipts of more than
2 \$150,000 but not more than \$200,000)-\$900;

3 (7) Class G (annual [~~gross~~] receipts of more than
4 \$200,000 but not more than \$250,000)-\$1,200;

5 (8) Class H (annual [~~gross~~] receipts of more than
6 \$250,000 but not more than \$300,000)-\$1,500;

7 (9) Class I (annual [~~gross~~] receipts of more than
8 \$300,000 but not more than \$400,000)-\$2,000; and

9 (10) Class J (annual [~~gross~~] receipts of more than
10 \$400,000)-\$2,500.

11 (d) Except as provided by Subsection (d-1), an [~~An~~]
12 applicant shall pay the fees established under Subsection (a)
13 annually.

14 (d-1) An applicant for a license or renewal of a license may
15 obtain a license that is effective for two years by paying [~~an~~
16 ~~amount equal to two times the amount of~~] the annual license fee
17 before the beginning of each year of the two-year license.

18 SECTION 1.05. Section **2001.307**, Occupations Code, is
19 amended to read as follows:

20 Sec. 2001.307. MAXIMUM LICENSE TERM. A [~~Except as~~
21 ~~otherwise provided by this chapter, a~~] license issued under this
22 chapter may not be effective for more than two years [~~one year~~].

23 SECTION 1.06. Section **2001.313**, Occupations Code, is
24 amended by amending Subsections (a) and (b-2) and adding
25 Subsections (j) and (k) to read as follows:

26 (a) To minimize duplicate criminal history background
27 checks by the commission and the costs incurred by organizations

1 and individuals, the commission shall maintain a registry of
2 individuals on whom the commission has conducted a criminal history
3 background check, or another person authorized under Subsection (j)
4 has conducted a criminal history background check and has submitted
5 the background check to the commission, and who are approved to be
6 involved in the conduct of bingo or to act as a bingo operator.

7 (b-2) The commission by rule may impose a fee for an initial
8 registration application and renewal application submitted under
9 this section and on an individual for whom the commission conducts a
10 criminal history background check. The commission shall set the
11 fees [~~fee~~] in amounts [~~an amount~~] sufficient to cover the
12 application processing costs, including the [~~a~~] criminal history
13 background check, identification card, and other administrative
14 costs the commission considers appropriate.

15 (j) A person other than an individual whose name is included
16 on an initial or renewal license application under this chapter may
17 obtain a criminal history background check to submit under this
18 section from:

19 (1) the Department of Public Safety, including through
20 the use of the department's online criminal history background
21 check service;

22 (2) a local law enforcement agency, including through
23 the use of the agency's online criminal history background check
24 service; or

25 (3) the commission.

26 (k) A criminal history background check for an individual
27 whose name is included on an initial or renewal license application

1 under this chapter must be performed by the commission.

2 SECTION 1.07. Section 2001.314(b), Occupations Code, is
3 amended to read as follows:

4 (b) The commission may [~~shall~~] provide the identification
5 card and [~~shall provide~~] a form to be completed by an individual
6 that allows the individual to prepare the identification card. The
7 commission may collect a reasonable charge to cover the cost of
8 providing the card or form.

9 SECTION 1.08. Section 2001.409, Occupations Code, is
10 amended by adding Subsection (b) to read as follows:

11 (b) Nothing in this chapter shall be construed as
12 authorizing any game using a video lottery machine or machines. In
13 this section "video lottery machine" or "machine" means any
14 electronic video game machine that, on insertion of cash, is
15 available to play or simulate the play of a video game, including
16 but not limited to video poker, keno, and blackjack, utilizing a
17 video display and microprocessor in which the player may receive
18 free games or credits that can be redeemed for cash, coins, or
19 tokens or that directly dispenses cash, coins, or tokens.

20 SECTION 1.09. Section 2001.414, Occupations Code, is
21 amended to read as follows:

22 Sec. 2001.414. BINGO RECORDS. (a) The commission by rule
23 may provide for different recordkeeping procedures for licensed
24 authorized organizations by class based on the amount of the
25 organization's total [gross] receipts derived from the conduct of
26 bingo [of the organization].

27 (b) An organization conducting bingo must record on a cash

1 register all transactions for which it receives total [~~bingo gross~~]
2 receipts derived from the conduct of bingo in conformance with
3 commission rules relating to transaction recording specifications.

4 SECTION 1.10. Section [2001.420](#), Occupations Code, is
5 amended by adding Subsections (b-1), (d), (e), (f), and (g) to read
6 as follows:

7 (b-1) For purposes of Subsections (a) and (b), the value of
8 a merchandise bingo prize is the amount paid for the merchandise by
9 the licensed authorized organization. A merchandise bingo prize
10 includes bingo cards, bingo pull-tabs, the use of a card-minder,
11 bingo daubers, and other bingo merchandise awarded as a prize for
12 winning a bingo game.

13 (d) The commission may adopt for a bingo market region in
14 this state rules that affect the percentage of total receipts
15 derived from the conduct of bingo that is paid by licensed
16 authorized organizations within that market region as prizes for
17 bingo games if the commission determines that the percentages of
18 the total receipts paid for the prizes by the organizations within
19 that market region unreasonably reduce the amount of the
20 organizations' net proceeds in that market region.

21 (e) A rule adopted under Subsection (d):

22 (1) may establish a minimum price charged for a bingo
23 card or pull-tab or for use of a card-minding device;

24 (2) must allow flexibility in compliance with the rule
25 by the licensed authorized organizations within the affected bingo
26 market region to allow the organizations to achieve substantial
27 compliance without undue burden on the organizations or their

1 customers; and

2 (3) must apply equally to each licensed authorized
3 organization operating at a bingo premises within the bingo market
4 region.

5 (f) An individual bingo market region set by the commission
6 must include all the territory in a single county and may include
7 part of the territory in an adjacent county as necessary for the
8 commission to define a bingo market region under Subsection (d).

9 (g) The commission shall annually review the impact of a
10 rule adopted under Subsection (d) on the conduct of bingo within the
11 bingo market region and may amend or repeal the rule if the rule
12 does not serve the purposes of Subsection (d).

13 SECTION 1.11. Sections 2001.451(d), (e), and (g),
14 Occupations Code, are amended to read as follows:

15 (d) Except as permitted by Subsection (c), a licensed
16 authorized organization may not commingle [~~gross~~] receipts derived
17 from the conduct of bingo with other funds of the organization.

18 (e) Except as permitted by Subsection (c) of this section
19 and by Section 2001.453(2), a licensed authorized organization may
20 not transfer [~~gross~~] receipts derived from the conduct of bingo to
21 another account maintained by the organization.

22 (g) The bingo operations of a licensed authorized
23 organization must:

24 (1) result in net proceeds in the amounts provided by
25 Section 2001.460 over the calendar year in which the license is in
26 effect [~~the organization's license period~~]; or

27 (2) if the organization has a two-year license, result

1 in net proceeds in the amounts provided by Section 2001.460 over
2 each calendar year in which [~~12-month period that ends on an~~
3 ~~anniversary of the date~~] the two-year license is in effect [~~was~~
4 ~~issued~~].

5 SECTION 1.12. Subchapter J, Chapter 2001, Occupations Code,
6 is amended by adding Section 2001.460 to read as follows:

7 Sec. 2001.460. REQUIRED MINIMUM NET PROCEEDS. (a) If the
8 combined gross gaming revenue of the licensed authorized
9 organizations located at a single bingo premises exceeds \$500,000
10 in a calendar year, the combined net proceeds of those
11 organizations for that calendar year may not be less than 10 percent
12 of the combined gross gaming revenue of those organizations.

13 (a-1) Notwithstanding Subsection (a), if the combined gross
14 gaming revenue of the licensed authorized organizations located at
15 a single bingo premises exceeds \$500,000 in a calendar year, the
16 combined net proceeds of those organizations may not be:

17 (1) in 2016, less than six percent of the combined
18 gross gaming revenue of those organizations; and

19 (2) in 2017, less than eight percent of the combined
20 gross gaming revenue of those organizations.

21 (b) If the combined gross gaming revenue of the licensed
22 authorized organizations located at a single bingo premises is
23 equal to \$500,000 or less in a calendar year, the combined net
24 proceeds of those organizations for that calendar year may not be
25 less than five percent of the combined gross gaming revenue of those
26 organizations.

27 (b-1) Notwithstanding Subsection (b) and subject to

1 Subsection (c), if the combined gross gaming revenue of the
2 licensed authorized organizations located at a single bingo
3 premises is equal to \$500,000 or less in a calendar year, the
4 combined net proceeds of those organizations for that calendar year
5 may not be:

6 (1) in 2016, less than three percent of the combined
7 gross gaming revenue of those organizations; and

8 (2) in 2017, less than four percent of the combined
9 gross gaming revenue of those organizations.

10 (c) A licensed authorized organization located at a bingo
11 premises described by Subsection (b) that conducts not more than
12 two bingo occasions during any week during a calendar year is exempt
13 from the requirements of Subsection (b). The commission by rule may
14 impose minimum net proceeds requirements in amounts less than the
15 amounts required under Subsection (b) on the organizations located
16 at a premises to which this subsection applies.

17 (c-1) This subsection applies only to a bingo premises that
18 on January 1, 2015, was operated under an active lessor license and
19 was located in a county any part of which is within 75 miles of a
20 casino that has electronic gaming. Notwithstanding any other
21 subsection of this section, the minimum net proceeds requirement
22 for a single bingo premises described by this subsection during a
23 calendar year is:

24 (1) for a single bingo premises at which the licensed
25 authorized organizations have a combined gross gaming revenue that
26 exceeds \$500,000, the lesser of:

27 (A) the amount determined using the percentage

1 required by this section; or

2 (B) \$12,000 multiplied by the number of licensed
3 authorized organizations conducting bingo at that premises; and

4 (2) for a single bingo premises at which the licensed
5 authorized organizations have a combined gross gaming revenue equal
6 to \$500,000 or less, the lesser of:

7 (A) the amount determined using the percentage
8 required by this section; or

9 (B) \$6,000 multiplied by the number of licensed
10 authorized organizations conducting bingo at that premises.

11 (c-2) This subsection and Subsections (a-1), (b-1), and
12 (c-1) expire December 31, 2019.

13 (d) The commission shall waive or reduce the minimum net
14 proceeds required by this section if:

15 (1) bingo has been conducted at the bingo premises for
16 less than 12 months;

17 (2) circumstances beyond the control of the licensed
18 authorized organizations operating at the bingo premises,
19 including force majeure, prevented the organizations from
20 satisfying the minimum net proceeds percentage;

21 (3) the licensed authorized organizations present a
22 business plan that the commission determines reasonably
23 establishes procedures to satisfy the minimum net proceeds
24 percentage in the next calendar year; or

25 (4) legal or illegal gaming in the area of the bingo
26 premises affected the ability of the organizations to satisfy the
27 minimum net proceeds percentage.

1 (e) If the commission waives or reduces the minimum net
2 proceeds percentage required by this section because of illegal
3 gaming, the commission shall notify the county commissioners court
4 of the county in which each affected bingo premises is located and
5 the governing body of any municipality in which the premises is
6 located of the commission's action and the reasons for that action.

7 SECTION 1.13. Section 2001.502, Occupations Code, is
8 amended to read as follows:

9 Sec. 2001.502. PRIZE FEE. (a) A licensed authorized
10 organization shall:

11 (1) collect from a person who wins a cash bingo prize
12 of more than \$5 a fee in the amount of five percent of the amount [~~or~~
13 ~~value~~] of the prize; [~~and~~]

14 (2) remit to the comptroller [~~commission~~] a fee in the
15 amount of 2.5 [~~five~~] percent of the amount collected under this
16 section for distribution as required by Section 2001.503; and

17 (3) deposit the remainder of the fees collected under
18 this section in the general charitable fund of the organization [~~or~~
19 ~~value of all bingo prizes awarded~~].

20 (b) The fee required under Subsection (a) does not apply to
21 a merchandise prize, including bingo cards, bingo pull-tabs, use of
22 a card-minder, bingo daubers, and other bingo merchandise awarded
23 as a prize for winning a bingo game.

24 SECTION 1.14. Section 2001.503, Occupations Code, is
25 amended to read as follows:

26 Sec. 2001.503. [~~LOCAL SHARE OF~~] PRIZE FEE DISTRIBUTION.

27 (a) Except as provided by Subsection (c), a county that imposed a

1 gross receipts tax on the conduct of bingo as of January 1, 1993, is
2 entitled to ~~[50 percent of]~~ the fee remitted to the comptroller
3 ~~[collected]~~ under Section 2001.502(2) ~~[2001.502 on a prize awarded~~
4 ~~at a game conducted in the county]~~.

5 (b) Except as provided by Subsection (c), a municipality
6 that imposed a gross receipts tax on the conduct of bingo as of
7 January 1, 1993, is entitled to ~~[50 percent of]~~ the fee remitted to
8 the comptroller ~~[collected]~~ under Section 2001.502(2) ~~[2001.502 on~~
9 ~~a prize awarded at a game conducted in the municipality]~~.

10 (c) If a county and municipality are both entitled to ~~[a~~
11 ~~share of]~~ the fee remitted to the comptroller under ~~[imposed by]~~
12 Section 2001.502(2) ~~[2001.502]~~:

13 (1) the county is entitled to 50 ~~[25]~~ percent of the
14 fee ~~[on a prize awarded at a game conducted in the county]~~; and

15 (2) the municipality is entitled to 50 ~~[25]~~ percent of
16 the fee ~~[on a prize awarded at a game conducted in the~~
17 ~~municipality]~~.

18 SECTION 1.15. Section 2001.505(a), Occupations Code, is
19 amended to read as follows:

20 (a) A licensed authorized organization conducting bingo
21 shall submit quarterly to the commission a report under oath
22 stating:

23 (1) the amount of the ~~[gross]~~ receipts derived from
24 the conduct of bingo;

25 (2) each item of expense incurred or paid;

26 (3) each item of expenditure made or to be made, the
27 name and address of each person to whom each item has been paid or is

1 to be paid, and a detailed description of the merchandise purchased
2 or the services rendered;

3 (4) the net proceeds derived from bingo;

4 (5) the use to which the proceeds have been or are to
5 be applied; and

6 (6) a list of prizes offered and given, with their
7 respective values.

8 SECTION 1.16. Section 2001.507, Occupations Code, is
9 amended to read as follows:

10 Sec. 2001.507. COLLECTION AND DISBURSEMENT OF PRIZE FEE.

11 (a) The comptroller [~~commission~~] shall deposit the revenue
12 collected from the fee on prizes imposed by Section 2001.502 to the
13 credit of a special account in the general revenue fund.

14 (b) The comptroller [~~commission~~] shall determine the total
15 amount of revenue deposited in the account from prizes awarded at
16 games in a county or municipality entitled to a fee [~~share~~] under
17 Section 2001.503.

18 (c) The comptroller [~~commission~~] shall send quarterly to a
19 county or municipality entitled to [~~a share of~~] the fee on prizes
20 the amount required [~~county's or municipality's share as provided~~]
21 by Section 2001.503.

22 (d) [~~The commission shall transfer any remaining amounts in~~
23 ~~the account to a nondedicated account in the general revenue fund.~~

24 [~~(e)~~] The comptroller [~~commission~~] shall transmit a
25 jurisdiction's [~~share of the~~] fee on prizes to the treasurer or the
26 officer of the jurisdiction performing the functions of the
27 treasurer's office payable to the jurisdiction. The amount

1 transmitted may be used by the jurisdiction for any purpose for
2 which the general funds of the jurisdiction may be used.

3 (e) [~~(f)~~] The comptroller [~~commission~~] may retain in a
4 jurisdiction's suspense account a portion of the jurisdiction's
5 [~~share of the~~] fee on prizes collected under this chapter. The
6 amount retained in the suspense account may not exceed five percent
7 of the amount remitted to the jurisdiction. The comptroller
8 [~~commission~~] may make refunds from the suspense account of a
9 jurisdiction for overpayments made to those accounts and may redeem
10 dishonored checks and drafts deposited to the credit of the
11 jurisdiction's suspense account.

12 (f) [~~(g)~~] If a jurisdiction entitled to a [~~share of the~~] fee
13 on prizes prohibits the conduct of bingo under Sections
14 2001.651-2001.656, the comptroller [~~commission~~] may retain in the
15 suspense account of the jurisdiction for one year five percent of
16 the final remittance to that jurisdiction. The amount retained in
17 the suspense account may be used to cover possible overpayment of
18 the jurisdiction's portion of the fee and to redeem dishonored
19 checks and drafts deposited to the credit of the account. One year
20 after the effective date of the prohibition of bingo in the
21 jurisdiction, the comptroller [~~commission~~] shall remit the balance
22 in the account to the jurisdiction and close the account.

23 (g) [~~(h)~~] Interest earned on all fees on prizes collected by
24 the comptroller [~~commission~~] under this chapter before
25 distribution to a local jurisdiction, including interest earned
26 from the suspense accounts retained under this section, shall be
27 credited to the general revenue fund.

1 SECTION 1.17. Section 2001.554(a), Occupations Code, is
2 amended to read as follows:

3 (a) A person commits an offense and the person's license is
4 subject to revocation under this chapter if the person:

5 (1) makes a false statement or material omission in an
6 application for a license under this chapter;

7 (2) fails to maintain records that fully and
8 accurately record each transaction connected with the conducting of
9 bingo, the leasing of premises to be used for bingo, or the
10 manufacture, sale, or distribution of bingo supplies or equipment;

11 (3) falsifies or makes a false entry in a book or
12 record if the entry relates to bingo, the disposition of bingo
13 proceeds, the application of rent received by a licensed authorized
14 organization, or the gross gaming revenue [~~receipts~~] from the
15 manufacture, sale, or distribution of bingo supplies or equipment;

16 (4) diverts or pays a portion of the net proceeds of
17 bingo to a person except in furtherance of one or more of the lawful
18 purposes provided by this chapter; or

19 (5) violates this chapter or a term of a license issued
20 under this chapter.

21 SECTION 1.18. (a) The following provisions of the
22 Occupations Code are repealed:

23 (1) Section 2001.060(b);

24 (2) Section 2001.305;

25 (3) Section 2001.436(c); and

26 (4) Section 2001.459(b).

27 (b) Section 10, Chapter 1057 (H.B. 3021), Acts of the 74th

1 Legislature, Regular Session, 1995, is repealed.

2 SECTION 1.19. (a) Not later than December 1, 2015, the Texas
3 Lottery Commission shall:

4 (1) adopt the rules necessary to implement the changes
5 in law made by this Act; and

6 (2) send to the comptroller a report on the prize fees
7 collected by the commission under Section 2001.502, Occupations
8 Code, as that section existed before amendment by this Act, in the
9 two years preceding the effective date of this Act and specify the
10 licensed authorized organizations that have paid the fee in a
11 timely or untimely manner.

12 (b) A licensed authorized organization that is listed on the
13 report required under Subsection (a)(2) of this section as paying
14 timely is exempt from posting any bond required under Section
15 151.254, Tax Code.

16 (c) Section 2001.451, Occupations Code, as amended by this
17 Act, applies beginning January 1, 2016.

18 (d) Section 2001.502, Occupations Code, as amended by this
19 Act, applies to prize fees collected on and after the effective date
20 of this Act. Prize fees collected before that date are governed by
21 the law in effect on the date the fees were collected and that law
22 continues in effect for that purpose.

23 ARTICLE 2. REGULATION OF AMUSEMENT REDEMPTION MACHINE GAME ROOMS

24 SECTION 2.01. Section 234.131, Local Government Code, as
25 added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature,
26 Regular Session, 2013, is amended by adding Subdivisions (1-a),
27 (1-b), (1-c), (5), (6), (7), and (8) to read as follows:

1 (1-a) "Applicant" means a person, owner, corporation,
2 partnership, or other business entity required to submit a game
3 room application.

4 (1-b) "Current fire inspection report" means a fire
5 inspection report issued by a fire department not earlier than the
6 60th day immediately preceding the date an application for issuance
7 or renewal of a game room is filed.

8 (1-c) "Gambling device" has the meaning assigned by
9 Section 47.01, Penal Code.

10 (5) "Peace officer" has the meaning assigned by
11 Article 2.12, Code of Criminal Procedure.

12 (6) "Public building" means a building used by
13 federal, state, or local government that is open to the general
14 public.

15 (7) "Regulation" means a regulation adopted by a
16 county in this state for the operation of a game room.

17 (8) "School" means a facility, including all attached
18 playgrounds, dormitories, stadiums, and other appurtenances that
19 are part of the facility, used for the primary purpose of
20 instruction or education, including primary or secondary schools,
21 colleges, and universities, both public and private.

22 SECTION 2.02. Section 234.134, Local Government Code, as
23 added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature,
24 Regular Session, 2013, is amended to read as follows:

25 Sec. 234.134. [~~LICENSES OR~~] PERMITS. (a) A county may
26 require that an owner or operator of a game room obtain a [~~license~~
27 ~~or~~] permit or renew a [~~license or~~] permit on a periodic basis to own

1 or operate a game room in the county. An application for a [~~license~~
2 ~~or~~] permit must be made in accordance with regulations adopted by
3 the county.

4 (b) Regulations adopted under this section may provide for
5 the denial, suspension, or revocation of a [~~license or~~] permit.

6 (c) A district court has jurisdiction of a suit that arises
7 from the denial, suspension, or revocation of a [~~license or other~~]
8 permit by a county.

9 SECTION 2.03. Subchapter E, Chapter 234, Local Government
10 Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd
11 Legislature, Regular Session, 2013, is amended by adding Sections
12 234.1341 and 234.1342 to read as follows:

13 Sec. 234.1341. PERMIT APPLICATION. (a) An owner or
14 operator of a game room may not operate, use, or maintain any game
15 room in a county that requires an owner or operator to obtain a
16 permit under Section 234.134 unless the owner or operator holds a
17 permit issued under this subchapter.

18 (b) An applicant shall file a completed application with the
19 county sheriff's office of the county in which the proposed game
20 room will be located. The application shall be filed on the form
21 provided by the office or on an accurate and legible copy of that
22 form. The applicant must apply in person at the office.

23 (c) The sheriff's office shall post a copy of the
24 application form and the permit fee amount on the county's Internet
25 website. The office shall establish the hours for submission of
26 applications under this section.

27 (d) The game room administrator of the sheriff's office

1 shall mail notice of receipt of a completed application or notice of
2 deficiencies in an application to the applicant not later than the
3 10th day after the date the application is received by the office.

4 (e) Each application must be accompanied by:

5 (1) an annual inspection report that includes
6 documentation of compliance with any previous correction ordered by
7 the sheriff's office or a fire safety official;

8 (2) a copy of the certification of occupancy or
9 certification of compliance issued by a building official as
10 appropriate for the proposed game room premises;

11 (3) a diagram or the game room floor plan prepared by a
12 licensed architect or engineer that includes the designed occupancy
13 load and has been reviewed by the county clerk;

14 (4) for a game room operating under an assumed name, a
15 copy of the assumed name certificate filed in the county clerk's
16 office that includes the file mark or stamp evidencing its filing;

17 (5) a nonrefundable application fee in the amount
18 established by the county commissioners court; and

19 (6) a copy of the applicant's government-issued photo
20 identification.

21 (f) An applicant's failure to provide the information or
22 documents required by this section or pay the fee required by
23 Section 234.135 or a determination by the sheriff's office that
24 inaccurate, erroneous, or incomplete information has been
25 submitted is grounds for denial or revocation of the application.

26 (g) If the sheriff's office denies a game room permit, the
27 office shall give the applicant written notice of the basis for

1 denial.

2 Sec. 234.1342. PERMIT RENEWAL. A permit holder may
3 annually renew the permit not earlier than 60 days before the date a
4 permit expires by filing a completed application for the permit
5 with the game room permit administrator of the sheriff's office and
6 paying the applicable fee. A renewal application is subject to the
7 same requirements as a permit application.

8 SECTION 2.04. Section [234.135](#), Local Government Code, as
9 added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature,
10 Regular Session, 2013, is amended to read as follows:

11 Sec. 234.135. FEES; ISSUANCE OF PERMIT; PREMISES
12 REQUIREMENTS. (a) A county may impose a fee not to exceed \$1,000 on
13 an applicant for a [~~license or~~] permit or for the renewal of the
14 [~~license or~~] permit required under this subchapter. The fee must be
15 based on the cost of processing the application and investigating
16 the applicant.

17 (b) An applicant shall pay the permit fee imposed under this
18 section to the sheriff's office. On completion of the application
19 process, the game room administrator of the sheriff's office shall
20 give the applicant a signed receipt. The receipt constitutes a
21 permit to operate the game room that is valid until the first
22 anniversary of the date the permit is issued.

23 (c) A person who holds a permit issued under this section
24 must meet and comply with all requirements of law applicable to the
25 game room premises or any activity conducted on the game room
26 premises. The issuance of a permit under this section does not
27 excuse or provide a defense to the permit holder, the permit

1 holder's agents or employees, or any patrons of the game room for a
2 violation of this subchapter or other law.

3 SECTION 2.05. Section 234.136, Local Government Code, as
4 added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature,
5 Regular Session, 2013, is amended to read as follows:

6 Sec. 234.136. INSPECTION BY LAW ENFORCEMENT OFFICER.

7 (a) A peace officer or county employee may inspect a business in
8 the county to determine the number of amusement redemption machines
9 subject to regulation under this subchapter that are located on the
10 premises of the business. A peace officer is authorized to inspect
11 any business for a violation of this subchapter.

12 (a-1) This section does not authorize a right of entry
13 otherwise prohibited by law. A peace officer may enter a business
14 under this section with consent, with a warrant, or under exigent
15 circumstances. A game room permit granted under this subchapter
16 gives peace officers implied consent under this section to enter
17 the premises of the game room.

18 (a-2) A business for which a game room permit has not been
19 issued under this subchapter that holds itself out as a game room,
20 by sign, advertisement, word-of-mouth, offering of memberships, or
21 any other means, is subject to inspection by a peace officer.
22 Refusal to allow a peace officer entry to inspect the premises of
23 the game room may be considered in establishing probable cause for
24 the issuance of a search warrant to inspect for violations of this
25 subchapter.

26 (b) A peace officer or county employee may inspect any
27 business in which six or more amusement redemption machines are

1 located to determine whether the business is in compliance with
2 this subchapter or regulations adopted under this subchapter or to
3 inspect records required under Section 234.1362.

4 (c) A person violates this subchapter if the person fails to
5 allow a peace officer or county employee to conduct an inspection of
6 a game room, an amusement redemption machine, or records required
7 under Section 234.1362 or this section.

8 SECTION 2.06. Subchapter E, Chapter 234, Local Government
9 Code, as added by Chapter 1284 (H.B. 2123), Acts of the 83rd
10 Legislature, Regular Session, 2013, is amended by adding Sections
11 234.1361, 234.1362, 234.1363, 234.1364, 234.1365, and 234.1366 to
12 read as follows:

13 Sec. 234.1361. DISPLAY OF GAME ROOM PERMITS. An owner or
14 operator of a game room shall display the valid game room permit
15 issued to the owner or operator under this subchapter on the game
16 room premises. The permit must be displayed in plain sight in a
17 common area accessible to the public without entrance to a
18 controlled area of the business.

19 Sec. 234.1362. RECORDS REQUIRED. (a) An owner or operator
20 of a game room shall maintain on the premises:

21 (1) a record for each employee that includes:

22 (A) the employee's name, address, date of birth,
23 state identification number or social security number, job
24 function, and W-2 or W-4 form;

25 (B) a copy of the employee's application to work
26 with the game room and a copy of the employee's I-9 filed for
27 employment eligibility verification with the Department of

1 Homeland Security; and

2 (C) a photograph of the employee;

3 (2) a daily register that includes the name, date of
4 birth, state identification number or social security number, and
5 job function of each employee present at the establishment that
6 day; and

7 (3) a copy of the county and state tax record forms
8 required under Chapter 2153, Occupations Code, or other law for
9 each amusement redemption machine on the premises that includes the
10 name of the manufacturer, the serial number, the type of machine,
11 and the serial number of the tax permit for a coin-operated machine
12 and, if applicable, the serial number for the county tax permit,
13 with the year of expiration for any tax permit.

14 (b) An owner or operator who violates Subsection (a) shall
15 be assessed a civil penalty of not more than \$10,000 for each record
16 required under this section that is missing.

17 (c) The game room shall preserve the daily register required
18 by Subsection (a)(2) for at least 90 days after the date the
19 register was made. An owner or operator who violates this
20 subsection may be assessed an administrative penalty in the amount
21 of \$500 for each register required to be preserved that is missing.

22 Sec. 234.1363. PROHIBITED EMPLOYMENT; CIVIL PENALTY. (a)
23 An owner or operator of a game room may not knowingly employ any
24 person who has been previously convicted of, or entered a plea of
25 nolo contendere or guilty or received deferred adjudication for, an
26 offense involving any conduct involving gambling violations
27 prohibited under Chapter 47, Penal Code.

1 (b) An owner or operator of a game room shall conduct a
2 criminal background check on each potential employee.

3 (c) Failure to comply with this section is a violation and
4 punishable by a civil penalty assessed against an owner or operator
5 not to exceed \$10,000 per prohibited employee working at the game
6 room and per employee working at the game room without being
7 subjected to a criminal background check.

8 (d) Each day a violation of this section continues or occurs
9 constitutes a separate violation for purposes of imposing a penalty
10 under Section 234.137.

11 Sec. 234.1364. AMUSEMENT REDEMPTION MACHINES; PERMITS AND
12 VIOLATIONS. (a) An owner or operator of a game room shall obtain
13 from the county a permit for each amusement redemption machine on
14 the game room premises in accordance with Chapter 2153, Occupations
15 Code.

16 (b) The owner or operator of a game room shall pay an annual
17 fee in an amount equal to 25 percent of the state's annual fee per
18 machine.

19 (c) Each amusement redemption machine permit application
20 shall specify on the application the physical location of the
21 amusement redemption machine.

22 (d) If a permit is not obtained for an amusement redemption
23 machine, the county tax assessor-collector's office shall lock the
24 machine, and it may not be used until the owner purchases a permit
25 for the machine by paying a \$100 permit fee and a \$5 release fee per
26 machine.

27 (e) If a county compliance officer is not allowed entrance

1 to a game room during business hours, a civil penalty not to exceed
2 \$10,000 for each date of denial shall be assessed on the owner or
3 operator of the game room.

4 (f) A county may assess a civil penalty under Section
5 234.137 on the owner or operator of a game room for each machine:

6 (1) that is not registered with a valid current year
7 video tax stamp decal prominently displayed on the machine; and

8 (2) used for illegal gambling.

9 (g) If a law enforcement agency determines through
10 investigation that a game room is operating in violation of Chapter
11 47, Penal Code, each amusement redemption machine or gambling
12 device in the game room is considered in violation. A civil penalty
13 not to exceed \$10,000 per machine or device may be assessed on the
14 owner or operator of the game room.

15 (h) It is not a defense to prosecution under this section
16 that the owner is not doing business in the owner's name, is not
17 leasing property in the owner's name, or only has an ownership
18 interest in the business.

19 Sec. 234.1365. GROUNDS FOR DENIAL, REVOCATION, OR
20 SUSPENSION OF PERMIT. (a) Any violation of this subchapter or
21 regulations adopted under this subchapter or failure to meet the
22 requirements of this subchapter and regulations adopted under this
23 subchapter is grounds for denial, revocation, or suspension of a
24 permit to operate a game room. If a game room's permit has been
25 revoked, denied, or suspended, the game room may not be operated
26 during the pendency of any appeal from the revocation, denial, or
27 suspension.

1 (b) The sheriff shall deny a game room permit on a finding by
2 the sheriff that the applicant:

3 (1) has been previously convicted of any of the
4 following offenses:

5 (A) gambling, gambling promotion, keeping a
6 gambling place, communicating gambling information, possession of
7 gambling devices or equipment, or possession of gambling
8 paraphernalia under Chapter 47, Penal Code;

9 (B) forgery, credit card abuse, or commercial
10 bribery under Chapter 32, Penal Code;

11 (C) any criminal offense under Chapter 34, Penal
12 Code;

13 (D) criminal attempt, conspiracy, or
14 solicitation to commit any of the offenses listed in Paragraphs
15 (A)-(C) or any other offense under the laws of another state or of
16 the United States that, if committed in this state, would have been
17 punishable as one or more of the offenses; or

18 (E) a criminal offense under Subchapter B,
19 Chapter 352, if:

20 (i) less than two years have elapsed since
21 the later of the date of conviction or the date of release from
22 confinement imposed for the conviction of a misdemeanor offense; or

23 (ii) less than five years have elapsed
24 since the later of the date of conviction or the date of release
25 from confinement for the conviction of a felony offense;

26 (2) makes a misleading statement in the application
27 for the game room permit;

1 (3) is younger than 18 years of age;

2 (4) has had a game room permit revoked within the
3 180-day period immediately preceding the date the application was
4 filed;

5 (5) is delinquent in the payment to the county of
6 taxes, fees, fines, or penalties assessed or imposed regarding the
7 operation of a game room;

8 (6) failed to pay the application or renewal fee
9 required by this subchapter; or

10 (7) has not had the required fire and life safety
11 inspection by a fire safety official within 60 days immediately
12 preceding the date the application was filed.

13 (c) The sheriff may initiate a proceeding to revoke or
14 suspend a game room permit if:

15 (1) any person commits on the premises of the game room
16 an offense listed in Subsection (b)(1);

17 (2) the applicant provides false, fraudulent, or
18 untruthful information on the original or renewal application;

19 (3) the game room permit should not have been issued
20 under the requirements of this subchapter or regulations adopted
21 under this subchapter;

22 (4) the owner or operator of the game room fails to
23 comply with corrections ordered by a fire safety official with
24 authority to conduct fire and life safety inspections in the county
25 in which the game room is located; or

26 (5) the owner is convicted of an offense listed in
27 Subsection (b)(1).

1 (d) The sheriff may not issue a game room permit or
2 temporary game room permit until final disposition of any case
3 involving an offense listed in Subsection (b)(1) that is pending or
4 arises during the application process.

5 Sec. 234.1366. DENIAL, REVOCATION, OR SUSPENSION OF PERMIT;
6 HEARING; APPEAL. (a) If an event providing a basis for denial,
7 revocation, or suspension of a game room permit under this
8 subchapter occurs, the sheriff shall send to the game room permit
9 holder or the holder's designated agent a written notice of denial,
10 revocation, or suspension. The notice must set out the reasons for
11 the action. The revocation or suspension is final on the fifth day
12 after the date notice is issued.

13 (b) The game room permit holder or the holder's designated
14 agent is entitled to appear before a hearing examiner appointed by
15 the commissioners court of the county in which the game room is
16 located on written request submitted to the sheriff not less than
17 the 10th business day after the date the notice is delivered. The
18 written request for a hearing stays the revocation or suspension
19 until the hearing is concluded.

20 (c) The hearing examiner may not have participated in any
21 investigation of the alleged grounds for the denial, revocation, or
22 suspension. The hearing must be held not later than the 14th
23 business day after the date the request for hearing is submitted.

24 (d) The game room permit holder and the sheriff are entitled
25 to present evidence, cross-examine witnesses, and be represented by
26 legal counsel. The rules of evidence for a civil, nonjury trial
27 apply to the hearing.

1 (e) If the facts presented at the hearing support a finding
2 that grounds exist for revoking or suspending a game room permit,
3 the hearing examiner may request that the parties present relevant
4 evidence to show whether suspension or revocation of the game room
5 permit is more appropriate. Reasonable conditions may be attached
6 to a game room permit by the hearing examiner based on the evidence
7 presented at the hearing.

8 (f) If the hearing examiner determines that a game room
9 permit should be revoked, the hearing examiner shall issue a
10 written order revoking the game room permit that is effective
11 immediately.

12 (g) If the hearing examiner determines based on the nature
13 of the violations that a suspension instead of a revocation is
14 appropriate, operation of the game room permit may be suspended for
15 a period not to exceed six months. The hearing examiner shall issue
16 a written order suspending the game room permit and attaching any
17 applicable conditions that is effective on the date the owner
18 receives notice.

19 (h) On a finding that Section 234.1365(c)(3), (4), or (5)
20 has been violated, the hearing examiner shall revoke the game room
21 permit.

22 (i) Revocation takes effect immediately on notice by the
23 sheriff, subject to reinstatement following an appeal, if:

24 (1) immediate action is required to protect the public
25 from injury or imminent danger; or

26 (2) a game room permit was issued based on a
27 misrepresentation in the application, and the game room permit

1 would not have been issued otherwise.

2 (j) The decision of the hearing examiner is final. The
3 losing party may appeal the decision by filing a petition in a
4 district court in the county not later than the 30th day after the
5 date of the decision. Judicial review is under the substantial
6 evidence rule, and the judgment of the district court may be
7 appealed, as in other civil cases.

8 (k) An applicant whose permit has been denied, revoked, or
9 suspended may reapply for a game room permit if the applicant makes
10 the changes necessary for the proposed game room to be in compliance
11 with this subchapter and regulations adopted under this subchapter.

12 SECTION 2.07. Section [234.132](#), Local Government Code, as
13 added by Chapter 1284 (H.B. 2123), Acts of the 83rd Legislature,
14 Regular Session, 2013, is repealed.

15 SECTION 2.08. Subchapter E, Chapter 234, Local Government
16 Code, as added by Chapter 1377 (H.B. 1127), Acts of the 83rd
17 Legislature, Regular Session, 2013, is repealed.

18 ARTICLE 3. EFFECTIVE DATE

19 SECTION 3.01. This Act takes effect September 1, 2015.