

By: Deshotel

H.B. No. 3839

A BILL TO BE ENTITLED

AN ACT

relating to the operation of casino gaming in this state by licensed persons in certain areas of this state to provide additional money for residual windstorm insurance coverage in the coastal areas; requiring occupational licenses or certifications; creating criminal offenses and providing other penalties; authorizing fees; imposing a tax.

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. CASINO GAMING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2004.001. DEFINITIONS. In this chapter:

(1) "Casino game" means any game of chance, including a game of chance in which the outcome may be partially determined by skill or ability, that involves the making of a bet, as defined by Section 47.01, Penal Code.

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

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

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

1 (5) "Executive director" means the executive director
2 of the commission.

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

7 Sec. 2004.002. APPLICABILITY OF FEDERAL LAW. All shipments
8 of casino gaming equipment and devices into, out of, or within this
9 state in connection with casino gaming are legal shipments of the
10 devices and are exempt from the provisions of 15 U.S.C. Sections
11 1171-1178 prohibiting the transportation of gambling devices.

12 SUBCHAPTER B. ADMINISTRATION

13 Sec. 2004.051. POWERS AND DUTIES OF COMMISSION AND
14 EXECUTIVE DIRECTOR. (a) The commission and executive director
15 have broad authority and shall exercise strict control over and
16 closely monitor casino gaming in this state to protect the public
17 health, welfare, and safety and ensure integrity, security,
18 honesty, and fairness in the conduct and administration of casino
19 gaming.

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

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

25 (1) monitor casino gaming operations on a continuing
26 basis;

27 (2) establish standards for:

1 (A) the operation of casino gaming;

2 (B) the provision of casino gaming equipment and
3 services; and

4 (C) the establishment and maintenance of casino
5 gaming facilities; and

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

9 Sec. 2004.052. RULES AND PROCEDURES. (a) The commission
10 shall adopt all rules necessary to supervise casino gaming in this
11 state, administer this chapter, and ensure the security of casino
12 gaming operations in this state.

13 (b) The commission shall establish procedures for the
14 approval, monitoring, and inspection of casino gaming operations as
15 necessary to protect the public health, welfare, and safety and the
16 integrity of this state and to prevent financial loss to this state.

17 Sec. 2004.053. FEES. The commission shall establish the
18 application, certification, and certification renewal fees for
19 each type of certification issued under this chapter in amounts
20 reasonable and necessary to cover the state's costs incurred in the
21 administration of this chapter and the regulation of casino gaming.

22 Sec. 2004.054. ANNUAL REPORT. The commission shall make an
23 annual report to the governor, the comptroller, and the legislature
24 that provides a summary of casino gaming revenues and expenses for
25 the state fiscal year preceding the report. The report must be in
26 the form and reported at the time provided by the General
27 Appropriations Act.

1 Sec. 2004.055. INVESTIGATIONS. The commission may
2 investigate a violation or alleged violation of:

- 3 (1) this chapter by any person; or
4 (2) the penal laws of this state in connection with the
5 administration of this chapter, the regulation of casino gaming, or
6 the conduct of casino gaming by a person authorized to operate
7 casino gaming under this chapter.

8 SUBCHAPTER C. CASINO GAMING

9 Sec. 2004.101. CASINO GAMING OPERATOR LICENSE. A person
10 may not conduct casino gaming in this state unless the person holds
11 a casino gaming operator license issued under this chapter.

12 Sec. 2004.102. ALLOCATION OF CASINO GAMING OPERATOR
13 LICENSES. The commission shall award not more than nine casino
14 gaming operator licenses to applicants as follows:

15 (1) one license in each of the counties of Galveston,
16 Jefferson, and Nueces, provided the license issued in Jefferson
17 County is for a location on a dredge spoil island at least 18 miles
18 in length that is accessible by a public road with one or more
19 bridges;

20 (2) three licenses in Bexar and Harris Counties to
21 persons who are licensed to conduct pari-mutuel wagering on horse
22 and greyhound races in one of those counties, provided not more than
23 two licenses are awarded in either county; and

24 (3) one license in each of three first tier coastal or
25 second tier coastal counties, as those terms are defined by Section
26 [2210.003](#), Insurance Code, to persons who are licensed to conduct
27 pari-mutuel wagering on horse and greyhound races in one of those

1 counties.

2 Sec. 2004.103. CERTIFICATES REQUIRED. (a) A person may not
3 provide, maintain, manufacture, distribute, sell, or lease casino
4 games or casino gaming equipment or services for use in this state
5 unless the person holds a gaming vendor certificate issued under
6 this chapter.

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

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

14 Sec. 2004.104. GAMING VENDOR CERTIFICATE. (a) The
15 commission shall issue a gaming vendor certificate to an eligible
16 person with the resources and experience required to provide casino
17 games or casino gaming equipment and services for casino gaming
18 operations authorized under this chapter.

19 (b) The commission by rule shall establish the minimum
20 qualifications for a gaming vendor certificate to ensure a
21 competitive market for casino gaming equipment and services and the
22 availability of reliable casino gaming equipment and services,
23 consistent with the health and safety of the public.

24 Sec. 2004.105. CASINO GAMING MANAGER CERTIFICATE. (a) The
25 commission shall issue a casino gaming manager certificate to an
26 eligible person with the qualifications and experience required to
27 manage casino gaming operations under this chapter.

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

4 Sec. 2004.106. GAMING EMPLOYEE CERTIFICATE. The commission
5 by rule and as necessary to protect the health and safety of the
6 public may establish other gaming employee positions that require a
7 certificate issued under this chapter to act in those positions.

8 Sec. 2004.107. BACKGROUND INVESTIGATIONS. Before issuing a
9 certificate to a person under this chapter, the commission shall
10 conduct a background investigation that includes obtaining
11 criminal history record information of the person seeking the
12 certificate to assist the commission in determining the person's
13 eligibility or suitability for the certificate.

14 SUBCHAPTER D. REVENUE

15 Sec. 2004.151. STATE CASINO GAMING ACCOUNT. The state
16 casino gaming account is a special account in the general revenue
17 fund. The account consists of all revenue received by the
18 commission from casino gaming, fees received under this chapter,
19 and all money credited to the account from any other fund or source
20 under law.

21 Sec. 2004.152. CASINO GAMING TAX. (a) A casino gaming tax
22 in an amount equal to 18 percent of the gross gaming revenue is
23 imposed on each holder of a casino gaming operator's license.

24 (b) The comptroller shall allocate the revenue from the tax
25 imposed under this section as follows:

26 (1) the comptroller shall transfer to the catastrophe
27 reserve trust fund established under Subchapter J, Chapter 2210,

1 Insurance Code, in an amount sufficient to ensure that the premium
2 and other revenue of the Texas Windstorm Insurance Association
3 together with the money allocated under this section equals the
4 insured losses and operating expenses of the association each state
5 fiscal year; and

6 (2) after making a transfer as required by Subdivision
7 (1), the comptroller shall transfer the remainder of the tax
8 revenue to the general revenue fund.

9 (c) The comptroller by rule shall adopt a schedule for the
10 collection of the tax imposed under this section and the transfer of
11 tax revenue under Subsection (b).

12 (d) Title 2, Tax Code, applies to the tax imposed under this
13 section.

14 SUBCHAPTER E. OFFENSES; PENALTIES

15 Sec. 2004.201. MANIPULATION OR TAMPERING. (a) A person
16 commits an offense if the person intentionally or knowingly
17 manipulates the outcome of a casino game, the amount of a casino
18 game prize, or the operation of a casino gaming device by physical,
19 electronic, or other means, other than in accordance with
20 commission rules.

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

23 Sec. 2004.202. SALE OF CASINO GAME TO PERSON YOUNGER THAN 18
24 YEARS OF AGE. (a) A casino gaming manager or an employee or agent
25 of a casino gaming manager commits an offense if the person
26 intentionally or knowingly:

27 (1) sells or offers to sell a play of a casino game to

1 an individual the person knows is younger than 18 years of age or
2 permits the individual to purchase a play of a casino game; or

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

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

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

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

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

15 (c) An offense under Subsection (a) is a Class B
16 misdemeanor.

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

19 Sec. 2004.203. DISCIPLINARY ACTION. (a) The commission
20 may refuse to issue a license or certificate or may revoke, suspend,
21 or refuse to renew a license or certificate or may reprimand a
22 license or certificate holder for a violation of this chapter,
23 other state law, or a rule of the commission.

24 (b) If the commission proposes to take action against a
25 license or certificate holder or applicant under Subsection (a),
26 the license or certificate holder or applicant is entitled to
27 notice and a hearing.

1 (c) The commission may place on probation subject to
2 reasonable conditions a person whose license or certificate is
3 suspended under this section.

4 (d) The commission may summarily suspend a license or
5 certificate issued under this chapter in the same manner as the
6 commission is authorized to suspend a license under Section
7 466.160, Government Code, if the commission determines that the
8 action is necessary to maintain the integrity, security, or
9 fairness of casino gaming.

10 (e) The commission by rule shall develop a system for
11 monitoring a license or certificate holder's compliance with this
12 chapter.

13 Sec. 2004.204. ADMINISTRATIVE PENALTY. (a) The commission
14 may impose an administrative penalty against a person who violates
15 this chapter or a rule or order adopted by the commission under this
16 chapter in the same manner as the commission is authorized to impose
17 an administrative penalty under Subchapter M, Chapter 2001.

18 (b) The amount of the administrative penalty may not exceed
19 \$1,000 for each violation. Each day a violation continues or occurs
20 may be considered a separate violation for purposes of imposing a
21 penalty.

22 (c) In determining the amount of the penalty, the executive
23 director shall consider:

24 (1) the seriousness of the violation, including the
25 nature, circumstances, extent, and gravity of the violation;

26 (2) the history of previous violations;

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

1 (4) efforts to correct the violation; and

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

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

7 Sec. 2004.205. CIVIL PENALTY. (a) A person who violates
8 this chapter or a rule adopted by the commission under this chapter
9 is liable to the state for a civil penalty not to exceed \$5,000 for
10 each day of violation.

11 (b) At the request of the commission, the attorney general
12 shall bring an action to recover a civil penalty authorized by this
13 section. The attorney general may recover reasonable expenses,
14 including attorney's fees, incurred in recovering the civil
15 penalty.

16 SECTION 2. Section [411.108](#)(a-1), Government Code, is
17 amended to read as follows:

18 (a-1) The Texas Lottery Commission is entitled to obtain
19 from the department criminal history record information maintained
20 by the department that relates to:

21 (1) a person licensed under Chapter 2001, Occupations
22 Code, or described by Section [2001.3025](#), Occupations Code; or

23 (2) a person holding or applying for a license or
24 certificate under Chapter 2004, Occupations Code.

25 SECTION 3. Section [466.024](#)(b), Government Code, is amended
26 to read as follows:

27 (b) The commission shall adopt rules prohibiting the

operation of any game using a video lottery machine or video gaming machine, except in accordance with Chapter 2004, Occupations Code.

SECTION 4. Section 47.02(c), Penal Code, is amended to read as follows:

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

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

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

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

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

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

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

SECTION 5. Section 47.09, Penal Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

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

(1) was authorized under:

1 (A) Chapter 2001, Occupations Code;
2 (B) Chapter 2002, Occupations Code; ~~[or]~~
3 (C) Chapter 2004, Occupations Code; or
4 (D) the Texas Racing Act (Article 179e, Vernon's
5 Texas Civil Statutes);

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

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

10 (A) Chapter 466, Government Code;
11 (B) the lottery division of the Texas Lottery
12 Commission;
13 (C) the Texas Lottery Commission; or
14 (D) the director of the lottery division of the
15 Texas Lottery Commission.

16 (c) Subsection (a)(1)(C) applies to a person manufacturing,
17 possessing, or operating a gambling device under a license or
18 certificate under Chapter 2004, Occupations Code.

19 SECTION 6. Chapter 47, Penal Code, is amended by adding
20 Section 47.095 to read as follows:

21 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
22 a defense to prosecution under this chapter that a person sells,
23 leases, transports, possesses, stores, or manufactures a gambling
24 device with the authorization of the Texas Lottery Commission under
25 Chapter 2004, Occupations Code, for transportation in interstate or
26 foreign commerce.

27 SECTION 7. (a) As soon as practicable after the effective

1 date of this Act, the Texas Lottery Commission shall adopt the rules
2 necessary to implement casino gaming in accordance with Chapter
3 2004, Occupations Code, as added by this Act.

4 (b) The Texas Lottery Commission may adopt initial rules for
5 purposes of implementing casino gaming in accordance with Chapter
6 2004, Occupations Code, as added by this Act, that expire not later
7 than May 1, 2016. Chapter 2001, Government Code, does not apply to
8 the adoption of those rules. This subsection expires June 1, 2016.

9 SECTION 8. This Act takes effect December 1, 2015, but only
10 if the constitutional amendment authorizing the legislature to
11 authorize the operation of casino games in certain areas of this
12 state by licensed persons to provide additional money for residual
13 windstorm insurance coverage in the coastal areas is approved by
14 the voters. If that amendment is not approved by the voters, this
15 Act has no effect.