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By:  Deshotel H.B. No. 494

A BILL TO BE ENTITLED

AN ACT

relating to the operation of casino gaming in certain coastal areas of this state by licensed persons to provide additional money for residual windstorm insurance coverage and catastrophic flooding assistance in the coastal areas; requiring occupational licenses or certifications; authorizing fees; imposing a tax; creating criminal offenses and providing other 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 2005 to read as follows:

CHAPTER 2005. CASINO GAMING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2005.001.  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.

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

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

Sec. 2005.002.  APPLICABILITY OF FEDERAL LAW. All shipments of casino gaming equipment and devices into, out of, or within this state in connection with casino gaming are legal shipments of the devices and are exempt from the provisions of 15 U.S.C. Sections 1171-1178 prohibiting the transportation of gambling devices.

SUBCHAPTER B. ADMINISTRATION

Sec. 2005.051.  POWERS AND DUTIES OF COMMISSION AND EXECUTIVE DIRECTOR. (a) The commission and executive director have broad authority and shall exercise strict control over and closely monitor casino gaming in this state to protect the public health, welfare, and safety and ensure integrity, security, honesty, and fairness in the conduct and administration of casino gaming.

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

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

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

(2)  establish standards for:

(A)  the operation of casino gaming;

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

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

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

Sec. 2005.052.  RULES AND PROCEDURES. (a) The commission shall adopt all rules necessary to supervise casino gaming in this state, administer this chapter, and ensure the security of casino gaming operations in this state.

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

Sec. 2005.053.  FEES. The commission shall establish the application, certification, and certification renewal fees for each type of certification issued under this chapter in amounts reasonable and necessary to cover this state's costs incurred in the administration of this chapter and the regulation of casino gaming.

Sec. 2005.054.  ANNUAL REPORT. The commission shall make an annual report to the governor, the comptroller, and the legislature that provides a summary of casino gaming revenues and expenses for the state fiscal year preceding the report. The report must be in the form and reported at the time provided by the General Appropriations Act.

Sec. 2005.055.  INVESTIGATIONS. The commission may investigate a violation or alleged violation of:

(1)  this chapter or rules adopted under this chapter by any person; or

(2)  the penal laws of this state in connection with the administration of this chapter, the regulation of casino gaming, or the conduct of casino gaming by a person authorized to operate casino gaming under this chapter.

SUBCHAPTER C. CASINO GAMING

Sec. 2005.101.  CASINO GAMING OPERATOR LICENSE. A person may not conduct casino gaming in this state unless the person holds a casino gaming operator license issued under this chapter.

Sec. 2005.102.  ALLOCATION OF CASINO GAMING OPERATOR LICENSES. The commission shall award not more than nine casino gaming operator licenses to applicants as follows:

(1)  one license in each of the counties of Galveston, Jefferson, and Nueces, provided the license issued in Jefferson County is for a location approved by the commissioners court of the county that has interstate access and other appropriate infrastructure;

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

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

Sec. 2005.103.  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 certificate, 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. 2005.104.  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 availability of reliable casino gaming equipment and services, consistent with the public health, welfare, and safety.

Sec. 2005.105.  CASINO GAMING MANAGER CERTIFICATE. (a) The commission shall issue a casino gaming manager certificate to an eligible person with the qualifications and experience required to manage casino gaming operations under this chapter.

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

Sec. 2005.106.  GAMING EMPLOYEE CERTIFICATE. The commission by rule and as necessary to protect the public health, welfare, and safety may establish gaming employee positions that require a certificate issued under this chapter to act in those positions.

Sec. 2005.107.  BACKGROUND INVESTIGATIONS. Before issuing a certificate to a person under this chapter, the commission shall conduct a background investigation that includes obtaining criminal history record information of the person seeking the certificate to assist the commission in determining the person's eligibility or suitability for the certificate.

SUBCHAPTER D. REVENUE

Sec. 2005.151.  STATE CASINO GAMING ACCOUNT. The state casino gaming account is a special account in the general revenue fund. The account consists of all revenue received by the commission from casino gaming, fees received under this chapter, and all money credited to the account from any other fund or source under law.

Sec. 2005.152.  CASINO GAMING TAX. (a) A casino gaming tax in an amount equal to 18 percent of a casino's gross gaming revenue is imposed on each holder of a casino gaming operator's license.

(b)  For each state fiscal year, the comptroller shall allocate the revenue from the tax imposed under this section and transfer to:

(1)  the catastrophe reserve trust fund established under Subchapter J, Chapter 2210, Insurance Code, the lesser of:

(A)  50 percent of the tax revenue imposed under this section; or

(B)  the amount sufficient to ensure that the premium and other revenue of the Texas Windstorm Insurance Association together with the money allocated under this section equals the insured losses and operating expenses of the association for the state fiscal year; and

(2)  the catastrophic flooding assistance trust fund established under Section 2005.153 the remainder of the tax revenue after making a transfer as required by Subdivision (1).

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

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

Sec. 2005.153.  CATASTROPHIC FLOODING ASSISTANCE TRUST FUND. (a) The catastrophic flooding assistance trust fund is established outside the treasury and is administered by the office of the governor. Credits of money in the fund are not state funds or subject to legislative appropriation.

(b)  The trust fund consists of money deposited to the fund under Section 2005.152 and appropriations to the fund made by the legislature.

(c)  If the office of the governor under Section 418.014, Government Code, declares a state of disaster regarding catastrophic flooding in a coastal area of this state, the governor shall make money in the fund available to the Texas Division of Emergency Management for the purpose of providing emergency relief under the state emergency management plan for victims of loss caused by the catastrophic flooding.

(d)  Interest and income from the assets of the trust fund shall be credited to and deposited in the trust fund.

SUBCHAPTER E. OFFENSES; DISCIPLINARY ACTIONS; PENALTIES

Sec. 2005.201.  MANIPULATION OR TAMPERING. (a) A person commits an offense if the person intentionally or knowingly manipulates the outcome of a casino game, the amount of a casino game prize, or the operation of a casino gaming device by physical, electronic, or other means, other than in accordance with commission rules.

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

Sec. 2005.202.  SALE OF CASINO GAME TO INDIVIDUAL YOUNGER THAN 18 YEARS OF AGE. (a) A person who is a casino gaming manager or an employee or agent of a casino gaming manager commits an offense if the person intentionally or knowingly:

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

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

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

(1)  purchases a play of a casino game;

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

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

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

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

Sec. 2005.203.  DISCIPLINARY ACTIONS. (a) The commission may refuse to issue a license or certificate or may revoke, suspend, or refuse to renew a license or certificate or may reprimand a license or certificate holder for a violation of this chapter, other state law, or a rule of the commission.

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

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

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

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

Sec. 2005.204.  ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty against a person who violates this chapter or a rule or order adopted by the commission under this chapter in the same manner as the commission is authorized to impose an administrative penalty under Subchapter M, Chapter 2001.

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

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

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

(2)  the history of previous violations;

(3)  the amount necessary to deter future violations;

(4)  efforts to correct the violation; and

(5)  any other matter that justice may require.

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

Sec. 2005.205.  CIVIL PENALTY. (a) A person who violates this chapter or a rule adopted by the commission under this chapter is liable to the state for a civil penalty not to exceed $5,000 for each day of violation.

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

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

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

(1)  a person licensed under Chapter 2001, Occupations Code, or described by Section 2001.3025, Occupations Code; or

(2)  a person holding or applying for a license or certificate under Chapter 2005, Occupations Code.

SECTION 3.  Section 466.024(b), Government Code, is amended to read as follows:

(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 2005, Occupations Code.

SECTION 4.  Section 47.02(c), Penal Code, as effective April 1, 2019, 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)  was permitted under Chapter 2005, Occupations Code;

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

(6) [~~(5)~~]  was permitted under Subtitle A-1, Title 13, Occupations Code (Texas Racing Act); or

(7) [~~(6)~~]  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, as effective April 1, 2019, 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:

(A)  Chapter 2001, Occupations Code;

(B)  Chapter 2002, Occupations Code;

(C)  Chapter 2004, Occupations Code;

(D) Chapter 2005, Occupations Code;

(E)  Subtitle A-1, Title 13, Occupations Code (Texas Racing Act); or

(F) [~~(E)~~]  Chapter 280, Finance Code;

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

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

(A)  Chapter 466, Government Code;

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

(C)  the Texas Lottery Commission; or

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

(c)  Subsection (a)(1)(D) applies to a person manufacturing, possessing, or operating a gambling device under a license or certificate issued under Chapter 2005, Occupations Code.

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

Sec. 47.095.  INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is a defense to prosecution under this chapter that a person sells, leases, transports, possesses, stores, or manufactures a gambling device with the authorization of the Texas Lottery Commission under Chapter 2005, Occupations Code, for transportation in interstate or foreign commerce.

SECTION 7.  (a) As soon as practicable after the effective date of this Act, the Texas Lottery Commission shall adopt the rules necessary to implement casino gaming in accordance with Chapter 2005, Occupations Code, as added by this Act.

(b)  The Texas Lottery Commission may adopt initial rules for purposes of implementing casino gaming in accordance with Chapter 2005, Occupations Code, as added by this Act, that expire not later than May 1, 2020. Chapter 2001, Government Code, does not apply to the adoption of those rules. This subsection expires June 1, 2020.

SECTION 8.  This Act takes effect December 1, 2019, but only if the constitutional amendment authorizing the legislature to authorize the operation of casino gaming in certain coastal areas of this state by licensed persons to provide additional money for residual windstorm insurance coverage and catastrophic flooding assistance in the coastal areas is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.