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By:  Lucio III H.B. No. 1275

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of sports betting; requiring an occupational permit; authorizing a fee; imposing a tax; creating criminal offenses.

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. SPORTS BETTING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2005.001.  DEFINITIONS. In this chapter:

(1)  "College sport" means an athletic event:

(A)  in which at least one participant is a team from a public or private institution of higher education, regardless of where the institution is located; and

(B)  that is not a Texas college sport.

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

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

(4)  "Executive director" means the executive director of the department.

(5)  "Permit holder" means a person who holds a permit issued under this chapter.

(6)  "Professional sport" means an athletic event involving at least two human competitors who receive compensation, in excess of their expenses, for participating in the event. The term does not include greyhound racing or horse racing regulated under Subtitle A-1 (Texas Racing Act).

(7)  "Sports betting" means placing a wager on a professional sport or college sport competition. The term does not include wagering on greyhound racing or horse racing regulated under Subtitle A-1 (Texas Racing Act).

(8)  "Sports betting platform" means a website, an application for a wireless telecommunication device, or any other similar technology that allows sports bettors to engage in sports betting.

(9)  "Sports bettor" means an individual physically located in this state who participates in sports betting.

(10)  "Texas college sport" means an athletic event in which at least one participant is a team from a Texas public or private institution of higher education.

(11)  "Youth sport" means an athletic event:

(A)  involving a participant who is 17 years of age or younger; or

(B)  in which at least one participant is a team from a public or private elementary, middle, or secondary school, regardless of where the school is located.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 2005.051.  SPORTS BETTING PROGRAM. (a) The commission shall operate a sports betting program under the direction of the executive director that allows applicants to apply for permits to engage in sports betting operations in this state.

(b)  The commission may establish a sports betting program directed by the executive director that authorizes the department to operate a sports betting platform. Any revenue received from a sports betting platform operated by the department that exceeds the expenses necessary to operate the platform shall be deposited to the credit of the foundation school fund.

(c)  The executive director may:

(1)  require bond or other surety satisfactory to the executive director from permit holders in the amount provided by rules adopted under this chapter;

(2)  suspend, revoke, or refuse to renew a permit issued under this chapter; and

(3)  enter into contracts for the operation of the sports betting program established under this section and enter into contracts related to sports betting with other states, provided that any contract entered into by the executive director prohibits assignment of the contract except with specific approval of the executive director.

Sec. 2005.052.  RULES. The commission shall adopt the rules necessary to protect the public health and safety, administer this chapter, and regulate a sports betting program established under this chapter.

Sec. 2005.053.  REPORTS. (a) The executive director shall provide to the commission, the comptroller, the governor, the chair of the senate finance committee, and the chair of the house appropriations committee a monthly statement of the sports betting revenues received by the department and the expenses incurred by the department in regulating sports betting for the preceding month.

(b)  The executive director shall submit to the governor and the legislature an annual report that includes:

(1)  a statement of the sports betting revenues received by the department and the expenses incurred by the department in regulating sports betting for the preceding state fiscal year; and

(2)  any recommendations, including statutory amendments, of the executive director or commission related to regulating sports betting.

(c)  The executive director shall immediately report to the governor and the legislature any matter that requires an immediate change in state law to prevent abuse and circumvention of this chapter or rules adopted under this chapter or to rectify undesirable conditions in connection with the administration or operation of a sports betting program.

SUBCHAPTER C. SPORTS BETTING REGULATION

Sec. 2005.101.  PERMIT REQUIRED. A person may not operate a sports betting program in this state unless the person holds a permit issued under this chapter.

Sec. 2005.102.  APPLICATION AND FEE FOR SPORTS BETTING PERMIT; OFFENSE. (a) An applicant for a sports betting permit shall submit to the department:

(1)  an application on a form prescribed by the executive director, containing the information prescribed in Subsection (b); and

(2)  a fee of $250,000.

(b)  An application for a sports betting permit must include the following information:

(1)  the applicant's background in sports betting;

(2)  the applicant's experience in wagering activities in this state and other jurisdictions, including the applicant's history and reputation of operational integrity and regulatory compliance;

(3)  the applicant's proposed internal controls, including controls to ensure that an individual who is excluded from participating in sports betting does not participate in sports betting;

(4)  the applicant's history of preventing compulsive gambling, including employee training programs; and

(5)  any other information the executive director considers necessary.

(c)  The department shall conduct a background investigation on each applicant for a sports betting permit. The background investigation must include a credit history check, a tax record check, and a criminal history record check.

(d)  The executive director may issue no more than five permits under this section. If more than five applicants submit applications, the executive director shall issue permits to the five applicants the executive director determines will best:

(1)  perform the duties of a permit holder; and

(2)  maximize revenue to this state.

(e)  A permit that is revoked or expired is not counted for purposes of the limit provided by Subsection (d).

(f)  The executive director shall approve an application and grant a permit not later than the 60th day after the date the application is received unless the executive director:

(1)  is prohibited from issuing additional permits under Subsection (d); or

(2)  finds an applicable ground for denial under Section 2005.103.

(g)  The executive director's decision under Subsection (f) is final unless appealed in accordance with this chapter.

Sec. 2005.103.  DENIAL OF PERMIT ISSUANCE OR RENEWAL. The executive director may deny issuance or renewal of a permit if:

(1)  the executive director reasonably believes:

(A)  the applicant is unable to satisfy the duties of a permit holder as described in Section 2005.107;

(B)  the applicant or its directors lack good character, honesty, or integrity; or

(C)  the applicant's prior activities, criminal history, reputation, or associations are likely to:

(i)  pose a threat to the public interest;

(ii)  impede the regulation of sports betting; or

(iii)  promote unfair or illegal activities in the conduct of sports betting;

(2)  the applicant or its directors knowingly make a false statement of material fact or deliberately fail to disclose information requested by the executive director;

(3)  the applicant or its directors knowingly fail to comply with this chapter, rules adopted under this chapter, or any requirements of the executive director;

(4)  the applicant or its directors were convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within the 10 years preceding the date the permit application is submitted;

(5)  the applicant's license, registration, or permit to conduct a sports betting operation issued by any other jurisdiction has been suspended or revoked;

(6)  the applicant defaults in payment of any obligation or debt due to this state; or

(7)  the applicant's application is incomplete.

Sec. 2005.104.  BOND REQUIRED. Before issuance of a permit, each permit holder must be bonded by a surety company entitled to conduct business in this state in the amount provided by commission rule.

Sec. 2005.105.  RENEWAL OF PERMIT. (a) A permit issued under this subchapter expires on the third anniversary of the date the permit is issued.

(b)  Not later than the 60th day before the date a permit expires, a permit holder wishing to renew the permit shall submit to the department:

(1)  a renewal application on a form prescribed by the executive director; and

(2)  a renewal fee of $200,000.

(c)  The executive director may deny a permit renewal if the executive director finds a ground for denial under Section 2005.103.

(d)  The executive director's action is final unless appealed in accordance with this chapter.

Sec. 2005.106.  CRIMINAL PENALTY. (a) Any person who knowingly falsifies, conceals, or misrepresents a material fact or knowingly makes a false, fictitious, or fraudulent statement or representation in any application under this subchapter commits an offense.

(b)  An offense under Subsection (a) is a Class A misdemeanor.

Sec. 2005.107.  DUTIES OF PERMIT HOLDERS. (a) A permit holder shall ensure that its sports betting operation takes reasonable measures to:

(1)  allow only individuals physically located in this state to place bets through the permit holder's sports betting platform;

(2)  protect the confidential information of sports bettors using the permit holder's sports betting platform;

(3)  prevent betting that is prohibited under this chapter or other state law;

(4)  allow an individual to restrict the individual's access to placing bets with the permit holder, including sharing with the department on the individual's request the restriction for the sole purpose of the department disseminating the request to other permit holders;

(5)  establish procedures to detect suspicious or illegal betting activity, including measures to immediately report the activity to the department; and

(6)  provide for the appropriate withholding of the applicable amount of state tax as required by Section 2005.108 and any federal income tax required under other laws or by rule for persons who receive income from sports betting.

(b)  A permit holder shall maintain records on:

(1)  all sports betting placed with the permit holder, including records of:

(A)  a sports bettor's personal information;

(B)  the amount and type of bet;

(C)  the time and location of the bet; and

(D)  the outcome of the bet; and

(2)  suspicious or illegal sports betting activity.

(c)  A permit holder shall disclose the records described in Subsection (b) to the department on request and shall maintain the records until at least the third anniversary of the date the related sports event occurs.

(d)  A permit holder shall ensure that advertisements for its sports betting operations:

(1)  disclose the identity of the permit holder;

(2)  provide information about or links to resources related to gambling addiction;

(3)  are not misleading to a reasonable person; and

(4)  do not target persons under the age of 21.

(e)  A permit holder may not sublicense, convey, concede, or otherwise transfer a permit to a third party.

(f)  A permit holder is prohibited from holding itself out to the public as a sports betting operation under more than two brands.

(g)  A permit holder shall conspicuously display the permit holder's identity to sports bettors on any sports betting platform operated by the permit holder.

Sec. 2005.108.  TAX; USE OF TAX REVENUE. (a)  A tax of 6.25 percent is imposed on each bet placed by a sports bettor under this chapter. The tax is to be collected by the permit holder at the time the bet is placed.

(b)  The tax imposed under this section is payable monthly to the department, and the permit holder shall remit the taxes on or before the 20th day of the next calendar month.

(c)  If the permit holder's accounting necessitates corrections to a previously remitted tax, the permit holder shall document the corrections when the following month's taxes are paid.

(d)  The department shall deposit tax revenue collected under this section to the credit of the foundation school fund.

Sec. 2005.109.  LIQUIDITY POOLS. (a)  The commission may adopt rules authorizing permit holders to offset loss and manage risk, directly or with a third party approved by the department, through the use of a liquidity pool in this state or another jurisdiction provided that the permit holder, or an affiliate of the permit holder, is licensed or otherwise authorized by that jurisdiction to operate a sports betting business.

(b)  A permit holder's use of a liquidity pool does not eliminate the permit holder's duty to ensure that sufficient funds are available to pay bettors.

Sec. 2005.110.  INTERMEDIATE ROUTING OF ELECTRONIC DATA. (a)  Sports betting offered to a sports bettor in this state must be initiated and received within this state unless otherwise authorized by federal law.

(b)  The intermediate routing of electronic data relating to sports betting authorized under this chapter does not determine the location in which a bet is initiated and received for purposes of determining compliance with this chapter.

SUBCHAPTER D. DISCIPLINARY ACTIONS AND PENALTIES

Sec. 2005.151.  CIVIL PENALTIES; SUSPENSION AND REVOCATION OF PERMIT. (a)  If the executive director determines a permit holder has violated this chapter or rules adopted under this chapter, the executive director in accordance with Chapter 51 may:

(1)  suspend or revoke the permit holder's permit; and

(2)  impose a monetary penalty not to exceed $1,000 for each violation of this chapter.

(b)  An action taken by the executive director under this section is final unless appealed in accordance with Sec. 2005.152.

Sec. 2005.152.  APPEAL. (a)  The commission shall hear and decide an appeal of any denial of a permit by the executive director or suspension or revocation of a permit under this chapter.

(b)  The action of the commission in granting or denying a permit, or suspending or revoking a permit under this chapter may be referred to the State Office of Administrative Hearings for a contested case hearing.

Sec. 2005.153.  PROHIBITED BETTING; OFFENSES. (a)  A person commits an offense if the person places or accepts a bet on Texas college sports or youth sports.

(b)  A person commits an offense if the person knowingly accepts or redeems or offers to accept or redeem a sports bet made by or on behalf of a person under 21 years of age.

(c)  An offense under this section is a Class A misdemeanor.

(d)  If conduct that constitutes an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Sec. 2005.154.  PERSONS PROHIBITED FROM BETTING; OFFENSE. (a)  A person commits an offense if the person places a sports bet and the person is:

(1)  a member, officer, or employee of the commission or the department;

(2)  a permit holder or an officer or employee of a permit holder;

(3)  an officer or an employee of any entity working directly on a contract relating to sports betting with the department; or

(4)  a competitor, coach, trainer, employee, or owner of a team in a sports event, or any referee for a sports event, and the actor places the sports bet on that event.

(b)  An offense under this section is a Class A misdemeanor.

(c)  If conduct that constitutes an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Sec. 2005.155.  OPERATION AND ADVERTISING OF UNPERMITTED FACILITY PROHIBITED; CIVIL PENALTY. (a)  A person may not make the person's premises available for placing wagers on sports betting using the Internet or advertise that the person's premises may be used for that purpose unless the person holds a permit issued under this chapter.

(b)  The executive director may impose a monetary penalty for each violation of this section. For a person determined to have made the person's premises available for placing wagers on sports betting using the Internet, the penalty may not exceed $1,000 per day per individual who places a bet. For a person determined to have advertised that the person's premises may be used for that purpose, the penalty may not exceed $10,000 per violation.

SECTION 2.  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 3.  Section 47.09(a), Penal Code, as effective April 1, 2019, is amended 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.

SECTION 4.  This Act takes effect January 1, 2020, but only if the constitutional amendment authorizing the legislature to legalize sports betting in this state is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.