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A BILL TO BE ENTITLED

AN ACT

relating to the authorization and regulation of social gaming establishments and the duties of the Texas Department of Licensing and Regulation; providing civil and administrative penalties; authorizing a fee; requiring an occupational license.

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. SOCIAL GAMING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2005.001.  SHORT TITLE. This chapter may be cited as the Social Gaming Act of 2019.

Sec. 2005.002.  DEFINITIONS. In this chapter:

(1)  "Bet" means an agreement to win or lose money, chips, tokens, or other consideration in a social game.

(2)  "Buy-in" means the amount of consideration paid by a player to enter a social game.

(3)  "Commercial game" means a game conducted in a manner that provides a mathematical or financial economic benefit to any person other than a player or participant in the game.

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

(5)  "Communal pot" means the total amount of considerations collected through all bets placed during one instance of a social game.

(6)  "Controlling person" means an individual who:

(A)  controls 25 percent or more of the voting securities of a corporation that offers or proposes to offer social gaming as an operator;

(B)  has final authority to set policy and direct management of an entity that offers or proposes to offer social gaming as an operator;

(C)  is authorized by an entity that offers or proposes to offer social gaming as an operator to contract with another entity to conduct social gaming on behalf of the contracting entity; or

(D)  is an officer or director of a corporation or a general partnership that offers social gaming as an operator.

(7)  "Dealer" means a person who exchanges bets between players, monitors activities, or conducts hands in a social game at a licensed social gaming establishment.

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

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

(10)  "Operator" means a person that organizes, operates, or promotes social games at a licensed social gaming establishment.

(11)  "Pay-out" means the amount of consideration paid to a player on the player's exit from a social game.

(12)  "Player" means an individual who is a registered member of a social gaming establishment, is at least 21 years of age, and participates in a social game while physically present on the premises of the establishment.

(13)  "Social game" means a card game:

(A)  that is conducted with players placing bets on predetermined outcomes in which no person receives an economic benefit except for personal winnings;

(B)  in which, except for the advantages of skill or luck, the risk of losing and the chance of winning are the same for all players; and

(C)  that does not include any commercial game or any video, mechanical, electronic, or online version of a game described by Paragraphs (A) and (B).

(14)  "Social gaming establishment" means an establishment in which social gaming authorized by this chapter is conducted.

Sec. 2005.003.  APPLICABILITY. This chapter does not apply to the conduct of bingo, charitable raffles, the state lottery, or greyhound or horse racing.

Sec. 2005.004.  OTHER GAMING NOT AUTHORIZED. This chapter does not authorize the conduct of commercial games or gambling otherwise prohibited by law.

Sec. 2005.005.  PRIVATE PLACE. For purposes of this chapter and other law, a social game conducted in a licensed social gaming establishment is conducted in a private place.

Sec. 2005.006.  ECONOMIC BENEFIT; SERVICE GRATUITY; ENTRANCE FEE. (a) For purposes of this chapter and other law, a social game is considered to be conducted in a manner that does not provide to any person an economic benefit other than player pay-outs if the social game is conducted in a licensed social gaming establishment in which:

(1)  total buy-ins equal total pay-outs;

(2)  bets are placed only between players; and

(3)  a fee or percentage of winnings is not collected from any communal pot.

(b)  A service gratuity may be accepted only if the gratuity:

(1)  does not create a discrepancy in the equal balance of buy-ins and pay-outs; and

(2)  is offered in a manner that does not conflict with Subsection (a).

(c)  An operator may not receive any economic benefit from a bet placed during a social game organized, operated, or promoted by that operator.

(d)  An operator may charge a player a fee to enter a social game held at a licensed social gaming establishment.

Sec. 2005.007.  PUBLIC POLICY: PREFERENCE FOR STATE RESOURCES. It is the intent of this chapter, where possible, to use the resources, goods, labor, and services of this state in the operation of social gaming-related amenities to the extent allowable by law.

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

Sec. 2005.051.  COMMISSION RULES ON REGULATION AND LICENSING. (a) To protect the public health, safety, and welfare and to ensure that social gaming authorized under this chapter is conducted fairly at social gaming establishments, the commission shall adopt rules providing for:

(1)  fees in amounts reasonable and necessary to administer this chapter;

(2)  requirements for licensing and renewal of a license issued under this chapter;

(3)  standards of conduct for license holders under this chapter; and

(4)  the administration and enforcement of this chapter.

(b)  The executive director shall ensure that rules adopted under this section are consistent with state and federal law.

Sec. 2005.052.  EXECUTIVE DIRECTOR AND DEPARTMENT DUTIES; APPLICABILITY OF OTHER LAW. (a) The executive director and department shall administer this chapter and license and regulate each social gaming establishment and operator in accordance with this chapter and rules adopted under this chapter.

(b)  Chapter 51 applies to licensing, regulation, and enforcement under this chapter. The department shall assess against a social gaming establishment a civil or administrative penalty authorized under that chapter for a violation of that chapter, this chapter, or a commission rule.

SUBCHAPTER C. SOCIAL GAMING LICENSING AND REGULATION

Sec. 2005.101.  LICENSE REQUIRED. (a) A person may not own or operate a social gaming establishment unless the person holds a social gaming establishment license issued under this chapter for the conduct of social games at the social gaming establishment.

(b)  A person may not act as an operator at a social gaming establishment unless the person holds a license issued under this chapter.

Sec. 2005.102.  GENERAL APPLICATION REQUIREMENTS; LICENSE TERM. (a) An applicant for a license under this chapter shall:

(1)  submit to the department a completed application on a form prescribed by the department;

(2)  pay the required fees; and

(3)  provide any other information required by commission rule.

(b)  A license issued under this chapter expires on the first anniversary of the date of issuance.

(c)  An applicant for a social gaming establishment license for a social gaming establishment in a county subject to Chapter 234, Local Government Code, must hold a game room permit issued under that chapter and be in good standing with the issuing authority.

Sec. 2005.103.  OPERATOR LICENSE QUALIFICATIONS. (a) An applicant for issuance or renewal of an operator license, or the applicant's controlling person, if applicable, must:

(1)  be 18 years of age or older;

(2)  demonstrate honesty, trustworthiness, and integrity; and

(3)  complete an education course approved by the commission under Section 2005.151.

(b)  On receipt of an original application for a license under this chapter, the department shall conduct a criminal history check on each applicant and each controlling person of an applicant to determine whether the applicant or controlling person is qualified for issuance of a license under this chapter. The department in accordance with commission rules may conduct a criminal history check for renewal of a license issued under this chapter.

(c)  In conducting a criminal history check under Subsection (b), the department may obtain from the Department of Public Safety criminal history record information for the applicant, controlling person, or license holder, as provided by Section 411.122, Government Code.

(d)  In conducting a criminal history check under Subsection (b), the department must obtain fingerprints from the applicant, controlling person, or license holder and submit the fingerprints for processing through appropriate local, state, and federal law enforcement agencies.

Sec. 2005.104.  SURETY BOND FOR OPERATOR LICENSE. (a) An applicant for issuance of, or a license holder applying for renewal of, an operator license must provide a surety bond in the amount of $50,000.

(b)  The surety bond provided by an applicant or license holder:

(1)  must be issued by a company authorized to conduct business in this state;

(2)  must comply with all applicable provisions of the Insurance Code;

(3)  must be payable to the department for the purpose of:

(A)  satisfying a judgment awarded to this state or a political subdivision of this state against the applicant or license holder for actions engaged in as an operator conducting social gaming activities;

(B)  paying penalties assessed on the applicant or license holder by this state or a political subdivision of this state for actions engaged in as an operator conducting social gaming activities; or

(C)  settling a tax debt or other debt owed to this state or a political subdivision of this state arising out of actions engaged in by an operator conducting social gaming activities; and

(4)  may not be limited to one claim, provided that the sum of all claims does not exceed the face value of the surety bond.

(c)  An applicant or license holder required to file a surety bond under this section must file a new bond with each application for renewal of the license holder's operator license.

(d)  A company that issues a surety bond for purposes of satisfying this section shall notify the department in writing not later than the 30th day before the date on which the company will cancel the bond.

(e)  An operator whose surety bond is canceled shall immediately cease operating a social gaming establishment. The operator may continue to operate the social gaming establishment after providing to the department a surety bond that is an acceptable replacement for the canceled bond.

Sec. 2005.105.  DENIAL OF APPLICATION. The commission or the executive director may deny an application for issuance or renewal of a license if:

(1)  the applicant or license holder does not meet the qualifications for the license;

(2)  after conducting an investigation and providing notice and an opportunity for a hearing, the executive director determines that the applicant or license holder has violated this chapter or a rule adopted under this chapter; or

(3)  the applicant or license holder engaged in fraud or misrepresentation in applying for or obtaining a license under this chapter.

Sec. 2005.106.  LICENSE RENEWAL. (a) A license issued under this chapter expires on the first or second anniversary of the date of issuance, as determined by commission rule.

(b)  The commission by rule shall establish the requirements for renewal of a license issued under this chapter, including the payment of applicable fees.

Sec. 2005.107.  STATEWIDE VALIDITY; NONTRANSFERABLE. A license issued under this chapter is valid throughout this state and is not transferable.

SUBCHAPTER D. EDUCATION

Sec. 2005.151.  RECOGNITION OF EDUCATION PROGRAMS AND COURSES. The commission by rule shall develop criteria by which the commission approves education programs and courses for operators and dealers.

SUBCHAPTER E. INSPECTIONS AND INVESTIGATIONS

Sec. 2005.201.  INSPECTIONS; INVESTIGATIONS. (a) The department may conduct inspections and investigations of social gaming establishments and persons suspected of being in violation of or threatening to violate this chapter as necessary to enforce this chapter or Chapter 51.

(b)  The department may:

(1)  enter the business premises of a license holder regulated by the department or a person suspected of being in violation of or threatening to violate this chapter or a rule or order of the commission or an order of the executive director under this chapter; and

(2)  examine and copy records pertinent to the inspection or investigation.

SUBCHAPTER F. ADMINISTRATIVE SANCTIONS; ENFORCEMENT

Sec. 2005.251.  ADMINISTRATIVE SANCTIONS. (a) The commission or the executive director may deny an application for a license, revoke, suspend, or refuse to renew a license, or reprimand a license holder for a violation of this chapter or a rule or order of the commission or an order of the executive director.

(b)  The commission or the executive director may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a license under this chapter, if the person violates this chapter or a rule or order of the commission or an order of the executive director.

Sec. 2005.252.  CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter or to protect the health and safety of the public.

(b)  The attorney general or the executive director may bring an action for an injunction or a civil penalty under this chapter, as provided by Section 51.352.

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 47.06, Penal Code, is amended by adding Subsection (f-1) to read as follows:

(f-1)  It is a defense to prosecution under Subsection (a) or (c) that the person owned, manufactured, transferred, or possessed the equipment or paraphernalia related to social gaming for the sole purpose of shipping it to a social gaming establishment licensed under Chapter 2005, Occupations Code.

SECTION 4.  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 5.  Not later than June 1, 2020, the Texas Commission of Licensing and Regulation shall adopt the rules necessary and the Texas Department of Licensing and Regulation shall develop the applications and establish the procedures necessary to implement Chapter 2005, Occupations Code, as added by this Act.

SECTION 6.  This Act takes effect September 1, 2019.