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By:  Gutierrez H.B. No. 3043

A BILL TO BE ENTITLED

AN ACT

relating to the operation of 12 casinos in this state by licensed persons in counties that have approved casino gaming; requiring occupational licenses; creating criminal offenses and providing other penalties; authorizing fees.

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

SECTION 1.  Subtitle A, Title 13, Occupations Code, is amended by adding Chapter 2006 to read as follows:

CHAPTER 2006. CASINO GAMING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2006.001.  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 licensed 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 licensed to operate casino gaming in this state.

Sec. 2006.002.  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. 2006.051.  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 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 casino gaming facilities, equipment, services, records, and operations to ensure compliance with the standards established by the commission.

Sec. 2006.052.  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. 2006.053.  FEES. The commission shall establish the application, license, and license renewal fees for each type of license issued under this chapter in amounts reasonable and necessary to cover the state's costs incurred in the administration of this chapter and the regulation of casino gaming.

Sec. 2006.054.  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. 2006.055.  INVESTIGATIONS. The commission may investigate a violation or alleged violation of:

(1)  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. 2006.101.  CASINO GAMING OPERATOR LICENSE. (a) A person may not conduct casino gaming in this state unless:

(1)  the person holds a casino gaming operator license issued under this chapter; and

(2)  the casino is in a county in which a majority of the voters of the county voted in favor of authorizing casino gaming in that county in accordance with Subchapter F of this chapter or Section 47a(b), Article III, Texas Constitution.

(b)  A person issued a casino gaming operator license under this chapter may operate only one casino under the license.

(c)  The commission may not issue more than 12 casino gaming operator licenses under this chapter as provided by Section 47a, Article III, Texas Constitution.

Sec. 2006.102.  OTHER LICENSES 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 license 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 license issued under this chapter.

(c)  Unless the person holds the required gaming employee license, 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 license issued under this chapter.

Sec. 2006.103.  GAMING VENDOR LICENSE. (a) The commission shall issue a gaming vendor license 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 license to ensure a competitive market for casino gaming equipment and services and the availability of reliable casino gaming equipment and services, consistent with the health and safety of the public.

Sec. 2006.104.  CASINO GAMING MANAGER LICENSE. (a) The commission shall issue a casino gaming manager license 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 license necessary to protect the health and safety of the public.

Sec. 2006.105.  GAMING EMPLOYEE LICENSE. The commission by rule and as necessary to protect the health and safety of the public may establish other gaming employee positions that require a license issued under this chapter to act in those positions.

Sec. 2006.106.  BACKGROUND INVESTIGATIONS. Before issuing a license 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 license to assist the commission in determining the person's eligibility or suitability for the license.

SUBCHAPTER D. REVENUE

Sec. 2006.151.  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.

SUBCHAPTER E. OFFENSES; PENALTIES

Sec. 2006.201.  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. 2006.202.  SALE OF CASINO GAME TO PERSON YOUNGER THAN 18 YEARS OF AGE. (a) 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 allows 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 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. 2006.203.  DISCIPLINARY ACTION. (a) The commission may refuse to issue a license or may revoke, suspend, or refuse to renew a license or may reprimand a license holder for a violation of this chapter, other state law, or a commission rule.

(b)  If the commission proposes to take action against a license holder or applicant under Subsection (a), the license 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 is suspended under this section.

(d)  The commission may summarily suspend a license 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 holder's compliance with this chapter.

Sec. 2006.204.  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. 2006.205.  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.

SUBCHAPTER F. LOCAL OPTION ELECTIONS

Sec. 2006.251.  ORDERING LOCAL OPTION ELECTION. The commissioners court of a county may at any time order an election to legalize casino gaming under this chapter in that county. The commissioners court shall order and hold an election to legalize casino gaming under this chapter in the county if the commissioners court is presented with a petition that meets the requirements of Section 2006.252 and is certified as valid under Section 2006.253.

Sec. 2006.252.  PETITION REQUIREMENTS. (a) A petition for a legalization election must include a statement substantially as follows before the space reserved for signatures on each page: "This petition is to require that an election be held in (name of county) to legalize casino gaming in (name of county)."

(b)  A petition is valid only if it is signed by registered voters of the county in a number that is not less than three percent of the total number of votes cast for governor by qualified voters of the county in the most recent gubernatorial general election.

(c)  Each voter must enter beside the voter's signature the date the voter signs the petition. A signature may not be counted as valid if the date of signing is earlier than the 90th day before the date the petition is submitted to the commissioners court.

(d)  Each voter must provide on the petition the voter's current voter registration number, printed name, and residence address, including zip code.

Sec. 2006.253.  VERIFICATION. (a) Not later than the fifth day after the date a petition for an election under this chapter is received in the office of the commissioners court, the commissioners court shall submit the petition for verification to the county clerk.

(b)  The county clerk shall determine whether the petition is signed by the required number of registered voters of the county. Not later than the 30th day after the date the petition is submitted to the clerk for verification, the clerk shall certify in writing to the commissioners court whether the petition is valid or invalid. If the clerk determines that the petition is invalid, the clerk shall state the reasons for that determination.

Sec. 2006.254.  ORDERING ELECTION. If the county clerk certifies that a petition is valid, not later than the 30th day after the date of certification, the commissioners court shall order that an election be held in the county on the next uniform election date under Section 41.001, Election Code, that allows sufficient time to comply with applicable provisions of law, including Section 3.005, Election Code. The commissioners court shall state in the order the issue to be voted on in the election. The county clerk shall notify the commission by certified mail, return receipt requested, that an election has been ordered.

Sec. 2006.255.  BALLOT PROPOSITION. The ballot in a legalization election shall be printed to provide for voting for or against the proposition: "Legalizing casino gaming within (name of county)."

Sec. 2006.256.  ELECTION RESULTS. (a) If the majority of the votes cast in a legalization election favor the legalization of casino gaming, casino gaming authorized under this chapter is authorized within the county holding the election effective on the 10th day after the date of the election.

(b)  The commissioners court of a county in which a legalization election has been held shall give written notice of the results of the election to the commission not later than the third day after the date the election is canvassed.

(c)  If less than a majority of the votes cast in a legalization election in any county are cast in favor of the legalization of casino gaming, casino gaming is not authorized in the county, and a subsequent election on the issue may not be held in the county before the corresponding uniform election date one year after the date of the election.

(d)  If less than a majority of the votes cast in two consecutive legalization elections within any county are cast in favor of the legalization of casino gaming, casino gaming is not authorized in the county, and a subsequent election on the issue may not be held in the county before the corresponding uniform election date five years after the date of the second election.

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 under Chapter 2006, 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 2006, 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 2006, 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, is amended by amending Subsection (a), as effective April 1, 2019, 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 2006, 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 under Chapter 2006, 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 2006, 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 2006, 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 2006, 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 12 casinos in this state by licensed persons in counties that have approved casino gaming is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.