

By: Deshotel

H.B. No. 494

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation of casino gaming in certain coastal areas
3 of this state by licensed persons to provide additional money for
4 residual windstorm insurance coverage and catastrophic flooding
5 assistance in the coastal areas; requiring occupational licenses or
6 certifications; authorizing fees; imposing a tax; creating
7 criminal offenses and providing other penalties.

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

9 SECTION 1. Subtitle A, Title 13, Occupations Code, is
10 amended by adding Chapter 2005 to read as follows:

11 CHAPTER 2005. CASINO GAMING

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 2005.001. DEFINITIONS. In this chapter:

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

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

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

24 (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. 2005.002. 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. 2005.051. 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, welfare, 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. 2005.052. 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. 2005.053. 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 this state's costs incurred in
21 the administration of this chapter and the regulation of casino
22 gaming.

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

1 Appropriations Act.

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

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

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

10 SUBCHAPTER C. CASINO GAMING

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

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

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

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

26 (3) one license in each of three first tier coastal or
27 second tier coastal counties, as those terms are defined by Section

1 2210.003, Insurance Code, to persons who are licensed to conduct
2 pari-mutuel wagering on horse or greyhound races in one of those
3 counties.

4 Sec. 2005.103. CERTIFICATES REQUIRED. (a) A person may not
5 provide, maintain, manufacture, distribute, sell, or lease casino
6 games or casino gaming equipment or services for use in this state
7 unless the person holds a gaming vendor certificate issued under
8 this chapter.

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

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

16 Sec. 2005.104. GAMING VENDOR CERTIFICATE. (a) The
17 commission shall issue a gaming vendor certificate to an eligible
18 person with the resources and experience required to provide casino
19 games or casino gaming equipment and services for casino gaming
20 operations authorized under this chapter.

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

26 Sec. 2005.105. CASINO GAMING MANAGER CERTIFICATE. (a) The
27 commission shall issue a casino gaming manager certificate to an

1 eligible person with the qualifications and experience required to
2 manage casino gaming operations under this chapter.

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

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

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

16 SUBCHAPTER D. REVENUE

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

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

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

1 transfer to:

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

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

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

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

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

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

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

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

27 (c) If the office of the governor under Section 418.014,

1 Government Code, declares a state of disaster regarding
2 catastrophic flooding in a coastal area of this state, the governor
3 shall make money in the fund available to the Texas Division of
4 Emergency Management for the purpose of providing emergency relief
5 under the state emergency management plan for victims of loss
6 caused by the catastrophic flooding.

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

9 SUBCHAPTER E. OFFENSES; DISCIPLINARY ACTIONS; PENALTIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (d) The commission may summarily suspend a license or
27 certificate issued under this chapter in the same manner as the

1 commission is authorized to suspend a license under Section
2 466.160, Government Code, if the commission determines that the
3 action is necessary to maintain the integrity, security, or
4 fairness of casino gaming.

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

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

13 (b) The amount of the administrative penalty may not exceed
14 \$1,000 for each violation. Each day a violation continues or occurs
15 may be considered a separate violation for purposes of imposing a
16 penalty.

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

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

21 (2) the history of previous violations;

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

23 (4) efforts to correct the violation; and

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

25 (d) The notice, hearing, and appeal for an administrative
26 penalty assessed under this section shall be provided or conducted
27 in the same manner as notice, hearing, and appeals are provided or

1 conducted under Subchapter M, Chapter 2001.

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

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

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

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

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

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

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

22 (b) The commission shall adopt rules prohibiting the
23 operation of any game using a video lottery machine or video gaming
24 machine, except in accordance with Chapter 2005, Occupations Code.

25 SECTION 4. Section 47.02(c), Penal Code, as effective April
26 1, 2019, is amended to read as follows:

27 (c) It is a defense to prosecution under this section that

1 the actor reasonably believed that the conduct:

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

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

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

8 (4) was permitted under Chapter 2005, Occupations
9 Code;

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

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

15 (7) [~~6~~] consisted entirely of participation in a
16 drawing for the opportunity to participate in a hunting, fishing,
17 or other recreational event conducted by the Parks and Wildlife
18 Department.

19 SECTION 5. Section 47.09, Penal Code, as effective April 1,
20 2019, is amended by amending Subsection (a) and adding Subsection
21 (c) to read as follows:

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

24 (1) was authorized under:

25 (A) Chapter 2001, Occupations Code;

26 (B) Chapter 2002, Occupations Code;

27 (C) Chapter 2004, Occupations Code;

- 1 (D) Chapter 2005, Occupations Code;
2 (E) Subtitle A-1, Title 13, Occupations Code
3 (Texas Racing Act); or
4 (F) [~~E~~] Chapter 280, Finance Code;
- 5 (2) consisted entirely of participation in the state
6 lottery authorized by Chapter 466, Government Code; or
7 (3) was a necessary incident to the operation of the
8 state lottery and was directly or indirectly authorized by:
- 9 (A) Chapter 466, Government Code;
10 (B) the lottery division of the Texas Lottery
11 Commission;
12 (C) the Texas Lottery Commission; or
13 (D) the director of the lottery division of the
14 Texas Lottery Commission.

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

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

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

26 SECTION 7. (a) As soon as practicable after the effective
27 date of this Act, the Texas Lottery Commission shall adopt the rules

1 necessary to implement casino gaming in accordance with Chapter
2 2005, Occupations Code, as added by this Act.

3 (b) The Texas Lottery Commission may adopt initial rules for
4 purposes of implementing casino gaming in accordance with Chapter
5 2005, Occupations Code, as added by this Act, that expire not later
6 than May 1, 2020. Chapter 2001, Government Code, does not apply to
7 the adoption of those rules. This subsection expires June 1, 2020.

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