

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

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

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

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

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

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

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

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

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

24 SUBCHAPTER B. POWERS AND DUTIES

25 Sec. 2005.051. SPORTS BETTING PROGRAM. (a) The commission  
26 shall operate a sports betting program under the direction of the  
27 executive director that allows applicants to apply for permits to

1 engage in sports betting operations in this state.

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

8 (c) The executive director may:

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

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

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

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

24 Sec. 2005.053. REPORTS. (a) The executive director shall  
25 provide to the commission, the comptroller, the governor, the chair  
26 of the senate finance committee, and the chair of the house  
27 appropriations committee a monthly statement of the sports betting

1 revenues received by the department and the expenses incurred by  
2 the department in regulating sports betting for the preceding  
3 month.

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

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

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

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

19 SUBCHAPTER C. SPORTS BETTING REGULATION

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

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

26 (1) an application on a form prescribed by the  
27 executive director, containing the information prescribed in

1 Subsection (b); and

2 (2) a fee of \$250,000.

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

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

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

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

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

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

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

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

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

27 (2) maximize revenue to this state.

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

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

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

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

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

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

14           (1) the executive director reasonably believes:

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

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

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

21                           (i) pose a threat to the public interest;

22                           (ii) impede the regulation of sports  
23 betting; or

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

26           (2) the applicant or its directors knowingly make a  
27 false statement of material fact or deliberately fail to disclose

1 information requested by the executive director;

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

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

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

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

14 (7) the applicant's application is incomplete.

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

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

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

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

27 (2) a renewal fee of \$200,000.

1       (c) The executive director may deny a permit renewal if the  
2 executive director finds a ground for denial under Section  
3 2005.103.

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

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

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

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

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

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

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

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



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

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

8           (b) A permit holder shall maintain records on:

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

11                   (A) a sports bettor's personal information;

12                   (B) the amount and type of bet;

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

14                   (D) the outcome of the bet; and

15           (2) suspicious or illegal sports betting activity.

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

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

22                   (1) disclose the identity of the permit holder;

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

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

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

27           (e) A permit holder may not sublicense, convey, concede, or

1 otherwise transfer a permit to a third party.

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

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

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

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

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

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

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

26 (b) A permit holder's use of a liquidity pool does not  
27 eliminate the permit holder's duty to ensure that sufficient funds

1 are available to pay bettors.

2 Sec. 2005.110. INTERMEDIATE ROUTING OF ELECTRONIC DATA.

3 (a) Sports betting offered to a sports bettor in this state must be  
4 initiated and received within this state unless otherwise  
5 authorized by federal law.

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

10 SUBCHAPTER D. DISCIPLINARY ACTIONS AND PENALTIES

11 Sec. 2005.151. CIVIL PENALTIES; SUSPENSION AND REVOCATION

12 OF PERMIT. (a) If the executive director determines a permit  
13 holder has violated this chapter or rules adopted under this  
14 chapter, the executive director in accordance with Chapter 51 may:

15 (1) suspend or revoke the permit holder's permit; and  
16 (2) impose a monetary penalty not to exceed \$1,000 for  
17 each violation of this chapter.

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

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

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

27 Sec. 2005.153. PROHIBITED BETTING; OFFENSES. (a) A person

1 commits an offense if the person places or accepts a bet on Texas  
2 college sports or youth sports.

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

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

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

10 Sec. 2005.154. PERSONS PROHIBITED FROM BETTING; OFFENSE.

11 (a) A person commits an offense if the person places a sports bet  
12 and the person is:

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

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

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

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

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

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

27 Sec. 2005.155. OPERATION AND ADVERTISING OF UNPERMITTED

1 FACILITY PROHIBITED; CIVIL PENALTY. (a) A person may not make the  
2 person's premises available for placing wagers on sports betting  
3 using the Internet or advertise that the person's premises may be  
4 used for that purpose unless the person holds a permit issued under  
5 this chapter.

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

13 SECTION 2. Section 47.02(c), Penal Code, as effective April  
14 1, 2019, is amended to read as follows:

15 (c) It is a defense to prosecution under this section that  
16 the actor reasonably believed that the conduct:

17 (1) was permitted under Chapter 2001, Occupations  
18 Code;

19 (2) was permitted under Chapter 2002, Occupations  
20 Code;

21 (3) was permitted under Chapter 2004, Occupations  
22 Code;

23 (4) was permitted under Chapter 2005, Occupations  
24 Code;

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

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

3           (7) [~~(6)~~] consisted entirely of participation in a  
4 drawing for the opportunity to participate in a hunting, fishing,  
5 or other recreational event conducted by the Parks and Wildlife  
6 Department.

7           SECTION 3. Section 47.09(a), Penal Code, as effective April  
8 1, 2019, is amended to read as follows:

9           (a) It is a defense to prosecution under this chapter that  
10 the conduct:

11           (1) was authorized under:

12                   (A) Chapter 2001, Occupations Code;

13                   (B) Chapter 2002, Occupations Code;

14                   (C) Chapter 2004, Occupations Code;

15                   (D) Chapter 2005, Occupations Code;

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

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

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

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

23                   (A) Chapter 466, Government Code;

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

26                   (C) the Texas Lottery Commission; or

27                   (D) the director of the lottery division of the

1 Texas Lottery Commission.

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