

By: Guillen

H.B. No. 2669

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authorization and regulation of social gaming  
3 establishments and the duties of the Texas Department of Licensing  
4 and Regulation; providing civil and administrative penalties;  
5 authorizing a fee; requiring an occupational license.

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

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

9 CHAPTER 2005. SOCIAL GAMING

10 SUBCHAPTER A. GENERAL PROVISIONS

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

13 Sec. 2005.002. DEFINITIONS. In this chapter:

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

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

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

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

23 (5) "Communal pot" means the total amount of  
24 considerations collected through all bets placed during one

1 instance of a social game.

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

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

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

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

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

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

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

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

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

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

27 (12) "Player" means an individual who is a registered

1 member of a social gaming establishment, is at least 21 years of  
2 age, and participates in a social game while physically present on  
3 the premises of the establishment.

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

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

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

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

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

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

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

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

26 Sec. 2005.006. ECONOMIC BENEFIT; SERVICE GRATUITY;  
27 ENTRANCE FEE. (a) For purposes of this chapter and other law, a

1 social game is considered to be conducted in a manner that does not  
2 provide to any person an economic benefit other than player  
3 pay-outs if the social game is conducted in a licensed social gaming  
4 establishment in which:

5           (1) total buy-ins equal total pay-outs;  
6           (2) bets are placed only between players; and  
7           (3) a fee or percentage of winnings is not collected  
8 from any communal pot.

9           (b) A service gratuity may be accepted only if the gratuity:  
10           (1) does not create a discrepancy in the equal balance  
11 of buy-ins and pay-outs; and

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

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

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

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

24           SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

25           Sec. 2005.051. COMMISSION RULES ON REGULATION AND  
26 LICENSING. (a) To protect the public health, safety, and welfare  
27 and to ensure that social gaming authorized under this chapter is

1 conducted fairly at social gaming establishments, the commission  
2 shall adopt rules providing for:

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

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

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

9 (4) the administration and enforcement of this  
10 chapter.

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

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

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

23 SUBCHAPTER C. SOCIAL GAMING LICENSING AND REGULATION

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

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

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

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

8           (2) pay the required fees; and

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

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

13       (c) An applicant for a social gaming establishment license  
14 for a social gaming establishment in a county subject to Chapter  
15 234, Local Government Code, must hold a game room permit issued  
16 under that chapter and be in good standing with the issuing  
17 authority.

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

21           (1) be 18 years of age or older;

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

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

26       (b) On receipt of an original application for a license  
27 under this chapter, the department shall conduct a criminal history

1 check on each applicant and each controlling person of an applicant  
2 to determine whether the applicant or controlling person is  
3 qualified for issuance of a license under this chapter. The  
4 department in accordance with commission rules may conduct a  
5 criminal history check for renewal of a license issued under this  
6 chapter.

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

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

17 Sec. 2005.104. SURETY BOND FOR OPERATOR LICENSE. (a) An  
18 applicant for issuance of, or a license holder applying for renewal  
19 of, an operator license must provide a surety bond in the amount of  
20 \$50,000.

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

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

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

27 (3) must be payable to the department for the purpose

1 of:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

22                           SUBCHAPTER D. EDUCATION

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

1           SUBCHAPTER E. INSPECTIONS AND INVESTIGATIONS

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

7           (b) The department may:

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

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

15           SUBCHAPTER F. ADMINISTRATIVE SANCTIONS; ENFORCEMENT

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

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

26           Sec. 2005.252. CEASE AND DESIST ORDER; INJUNCTION; CIVIL  
27 PENALTY. (a) The executive director may issue a cease and desist

1 order as necessary to enforce this chapter if the executive  
2 director determines that the action is necessary to prevent a  
3 violation of this chapter or to protect the health and safety of the  
4 public.

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

8 SECTION 2. Section 47.02(c), Penal Code, as effective April  
9 1, 2019, is amended to read as follows:

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

12 (1) was permitted under Chapter 2001, Occupations  
13 Code;

14 (2) was permitted under Chapter 2002, Occupations  
15 Code;

16 (3) was permitted under Chapter 2004, Occupations  
17 Code;

18 (4) was permitted under Chapter 2005, Occupations  
19 Code;

20 (5) consisted entirely of participation in the state  
21 lottery authorized by the State Lottery Act (Chapter 466,  
22 Government Code);

23 (6) [~~5~~] was permitted under Subtitle A-1, Title 13,  
24 Occupations Code (Texas Racing Act); or

25 (7) [~~6~~] consisted entirely of participation in a  
26 drawing for the opportunity to participate in a hunting, fishing,  
27 or other recreational event conducted by the Parks and Wildlife

1 Department.

2 SECTION 3. Section 47.06, Penal Code, is amended by adding  
3 Subsection (f-1) to read as follows:

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

9 SECTION 4. Section 47.09(a), Penal Code, as effective April  
10 1, 2019, is amended to read as follows:

11 (a) It is a defense to prosecution under this chapter that  
12 the conduct:

13 (1) was authorized under:

14 (A) Chapter 2001, Occupations Code;

15 (B) Chapter 2002, Occupations Code;

16 (C) Chapter 2004, Occupations Code;

17 (D) Chapter 2005, Occupations Code;

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

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

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

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

25 (A) Chapter 466, Government Code;

26 (B) the lottery division of the Texas Lottery  
27 Commission;

1 (C) the Texas Lottery Commission; or

2 (D) the director of the lottery division of the  
3 Texas Lottery Commission.

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

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