

By: Menéndez

S.B. No. 889

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

1 instance of a social game or tournament event.

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 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 employed, appointed, or authorized by an
10 entity that offers or proposes to offer social gaming as an operator
11 to contract with another entity to conduct social gaming on behalf
12 of the 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 (15) "Tournament event" means an event at a social
18 gaming establishment in which two or more players pay a buy-in to
19 compete in a social game in which:

20 (A) the players place bets using chips that have
21 no monetary value and cannot be exchanged for money; and

22 (B) a player is awarded a pay-out based on the
23 total time the player remains in the game and the total amount of
24 chips the player acquires.

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

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

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

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

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

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

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

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

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

27 Sec. 2005.007. PUBLIC POLICY: PREFERENCE FOR STATE

1 RESOURCES. It is the intent of this chapter, where possible, to use
2 the resources, goods, labor, and services of this state in the
3 operation of social gaming-related amenities to the extent
4 allowable by law.

5 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

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

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

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

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

17 (4) the administration and enforcement of this
18 chapter.

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

21 Sec. 2005.052. DEPARTMENT DUTIES; APPLICABILITY OF OTHER
22 LAW. (a) The department shall license and regulate each social
23 gaming establishment, operator, and dealer in accordance with this
24 chapter and rules adopted under this chapter.

25 (b) Chapter 51 applies to licensing, regulation, and
26 enforcement under this chapter. The department shall assess
27 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 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 or dealer at a social gaming establishment unless the person holds a license issued under this chapter.

(c) A player may not participate in a social game at a social gaming establishment that is not licensed 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.

Sec. 2005.103. SOCIAL GAMING ESTABLISHMENT LICENSE REQUIREMENTS. An applicant for a social gaming establishment license must hold a game room permit issued under Subchapter E, Chapter 234, Local Government Code, and be in good standing with the issuing authority.

Sec. 2005.104. OPERATOR LICENSE OR DEALER LICENSE

1 QUALIFICATIONS. (a) An applicant for issuance or renewal of an
2 operator license or a dealer license, or the applicant's
3 controlling person, if applicable, must:

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

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

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

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

17 (c) In conducting a background and criminal history check
18 under Subsection (b), the department may obtain from the Department
19 of Public Safety criminal history record information for the
20 applicant, controlling person, or license holder, as provided by
21 Section [411.122](#), Government Code.

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

27 Sec. 2005.105. 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 \$25,000.

(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

1 for renewal of the license holder's operator license.

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

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

11 Sec. 2005.106. DENIAL OF APPLICATION. The commission or
12 the executive director may deny an application for issuance or
13 renewal of a license if:

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

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

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

23 Sec. 2005.107. LICENSE RENEWAL. The commission shall adopt
24 rules regarding the annual renewal of licenses issued under this
25 chapter, including rules on required background and criminal
26 history checks.

27 Sec. 2005.108. STATEWIDE VALIDITY; NONTRANSFERABLE. A

license issued under this chapter is valid throughout this state and is not transferable.

Sec. 2005.109. RESTRICTION ON TOURNAMENT EVENT. The operator of a social gaming establishment may not conduct a tournament event in which an amount less than the total amount of buy-ins is collected and distributed as pay-outs to the players participating in the event for which the buy-ins are collected.

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 of social gaming establishments and investigate license holders under 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

1 commission or the executive director may deny an application for a
2 license, revoke, suspend, or refuse to renew a license, or
3 reprimand a license holder for a violation of this chapter or a rule
4 or order of the commission or an order of the executive director.

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

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

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

19 SECTION 2. Section 47.02(c), Penal Code, as effective April
20 1, 2019, is amended to read as follows:

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

23 (1) was permitted under Chapter 2001, Occupations
24 Code;

25 (2) was permitted under Chapter 2002, Occupations
26 Code;

27 (3) was permitted under Chapter 2004, Occupations

1 Code;

2 (4) was permitted under Chapter 2005, Occupations
3 Code;

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

7 (6) [~~5~~] was permitted under Subtitle A-1, Title 13,
8 Occupations Code (Texas Racing Act); or

9 (7) [~~6~~] consisted entirely of participation in a
10 drawing for the opportunity to participate in a hunting, fishing,
11 or other recreational event conducted by the Parks and Wildlife
12 Department.

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

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

20 SECTION 4. Section 47.09(a), Penal Code, as effective April
21 1, 2019, is amended 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;

(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 March 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.