87R1418 ADM-F

By:  Wu H.B. No. 770

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of poker clubs in certain counties; providing civil penalties; authorizing an occupational license; authorizing a fee; creating a criminal offense.

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

SECTION 1.  Chapter 234, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. POKER CLUBS

Sec. 234.161.  DEFINITIONS. In this subchapter:

(1)  "Operator" means an individual who:

(A)  operates a cash register, cash drawer, or other depository on the premises of a poker club or of a business at which is kept the money earned, or any credit card or other credit transaction records generated, from the operation of and activities conducted in a poker club;

(B)  displays, delivers, or provides to a member of a poker club merchandise, goods, entertainment, or other services offered on the premises of the poker club;

(C)  accepts orders from a member of a poker club for merchandise, goods, entertainment, or other services offered on the premises of the poker club;

(D)  acts as a door attendant to regulate entry of members or other individuals into a poker club; or

(E)  supervises or manages other individuals at a poker club in the performance of an activity listed in this subdivision.

(2)  "Poker club" means a private for-profit business located in a building or place that contains one or more poker gaming tables.

(3)  "Poker club owner" means a person who:

(A)  has an ownership interest in, or receives the profits from, a poker club;

(B)  is a partner, director, or officer of a business, including a company or corporation, that has an ownership interest in a poker club;

(C)  is a shareholder who holds more than 10 percent of the outstanding shares of a business, including a company or corporation, that has an ownership interest in a poker club;

(D)  has been issued by the county clerk an assumed name certificate for a business that owns a poker club;

(E)  signs a lease for a poker club;

(F)  opens an account for utilities for a poker club;

(G)  receives a certificate of occupancy or certificate of compliance for a poker club;

(H)  pays for advertising for a poker club; or

(I)  signs an alarm permit for a poker club.

(4)  "Poker game" means a card game in which:

(A)  a member of a poker club physically present at the poker club places a bet based on the highest or lowest ranking hand of cards held by the member or on a combination of highest and lowest cards held by the member;

(B)  each member participating in the game has an opportunity to benefit from personal winnings; and

(C)  except for the advantage of skill or luck, the risks of losing and the chances of winning are the same for all members participating in the game.

(5)  "Poker gaming table" means a recreational table at which members of a poker club participate in a live poker game. The term does not include a table that offers any video, mechanical, electronic, or online version of a poker game.

Sec. 234.162.  APPLICABILITY. This subchapter applies only to a county with a population of four million or more.

Sec. 234.163.  AUTHORITY TO REGULATE; CONFLICT OF REGULATIONS. (a) To promote the public health, safety, and welfare, the commissioners court of a county may regulate the operation of poker clubs and may:

(1)  restrict the location of poker clubs to specified areas of the county, including the unincorporated area of the county;

(2)  prohibit a poker club location within a certain distance, prescribed by the commissioners court, of a school, regular place of religious worship, or residential neighborhood; or

(3)  restrict the number of poker clubs that may operate in a specified area of the county.

(b)  To the extent of a conflict between a county order or regulation adopted under this subchapter and a municipal ordinance, the county order prevails.

Sec. 234.164.  LICENSE REQUIREMENT. (a) A county may require a poker club owner or operator to obtain a license or renew a license on a periodic basis to own or operate a poker club in the county. An application for a license must be made in accordance with regulations adopted by the county.

(b)  Regulations adopted under this section may establish qualifications for a poker club owner or operator and provide for the denial, suspension, or revocation of a license for violations of this subchapter and any regulation or order adopted under this subchapter.

(c)  A district court in the county has jurisdiction of a suit that arises from the denial, suspension, or revocation of a license by the county.

Sec. 234.165.  FEES. A county may impose a fee on an applicant for a license or for the renewal of the license required under this subchapter. The fee must be based on the cost of processing the application and investigating the applicant.

Sec. 234.166.  INSPECTION. A county employee may inspect a business containing one or more poker gaming tables in the county to determine whether the business is in compliance with this subchapter and regulations and orders adopted under this subchapter.

Sec. 234.167.  INJUNCTION; CIVIL PENALTY. (a) A county may sue in district court for an injunction to prohibit the violation or threatened violation of a regulation or order adopted under this subchapter.

(b)  A person who violates a regulation or order adopted under this subchapter is liable to the county for a civil penalty of not more than $10,000 for each violation. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty under this subsection. A county may bring suit in district court to recover a civil penalty authorized by this subsection.

(c)  The county is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, under this section, including reasonable attorney's fees, court costs, and investigatory costs.

Sec. 234.168.  CRIMINAL PENALTY. (a) A person commits an offense if the person intentionally or knowingly operates a poker club in violation of a regulation or order adopted under Section 234.163.

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

Sec. 234.169.  CUMULATIVE EFFECT. Authority under this subchapter is cumulative of other authority a county is granted to regulate poker clubs and does not limit that authority.

Sec. 234.170.  EFFECT ON OTHER LAWS. (a) This subchapter does not legalize any activity prohibited under the Penal Code or other state law.

(b)  A person's compliance with this subchapter, including operating a poker club under a license issued under this chapter, is not a defense to prosecution for an offense under Chapter 47, Penal Code.

(c)  A person who is subject to prosecution under Section 234.168 and any other law may be prosecuted under either or both laws.

SECTION 2.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.