By:  Huberty H.B. No. 2070

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of sports wagering; requiring an occupational permit; authorizing a fee; imposing a tax; creating criminal offenses; decriminalizing wagering on sports events.

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

SECTION 1.  LEGISLATIVE FINDINGS. The Legislature finds the following:

(1)  Consistent with a 2018 United States Supreme Court decision authorizing states to exercise their lawful prerogative to license and regulate sports wagering activity, it is in this state's interest to authorize a strict regulatory model for sports wagering.

(2)  A legal, regulated sports wagering market will help to deter unlawful sports wagering and provide for more regulatory and law enforcement oversight over sports wagering, while generating revenue to this state;

(3)  Any sports wagering enforcement and regulatory structure must begin from the bedrock premise that participation in a lawful and licensed sports-wagering industry is a privilege and not a right and that strict regulatory oversight is intended to safeguard the integrity of wagering on sporting events and to ensure accountability and the public trust;

(4)  The most expeditious way to legalize sports wagering in this state and to strictly regulate this activity is to utilize the resources of the Texas Department of Licensing and Regulation, which has experience regulating business activities in this state; and

(5)  Sports wagering within this state will be vested in sports wagering operators acting under authority of state law and will promote trust and integrity in all sports wagering operations.

SECTION 2.  Subtitle A, Tile 13, Occupations Code, is amended by adding Chapter 2005 to read as follows:

CHAPTER 2005. SPORTS WAGERING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2005.001.  SHORT TITLE. This chapter may be cited as the Texas Sports and Entertainment Recovery Act.

Sec. 2005.002.  DEFINITIONS. In this chapter:

(1)  "Adjusted gross revenue" means gross wagering revenue received by a sports wagering operator from all sports wagers authorized under this chapter, minus:

(A)  all cash or cash equivalents paid out as winnings to players;

(B)  the actual cost paid by a sports wagering operator for any personal property distributed to a player as a result of a sports wager authorized under this chapter;

(C)  the cash value of any bonuses or promotional credits provided to players that are then returned to a sports wagering operator;

(D)  Uncollectible receivables, not to exceed four percent of gross revenue, except that the commission may increase that percentage upon a showing of that a higher amount is reasonable and warranted; and

(E)  excise tax payments on sports wagers remitted to the federal government.

(F)  Amounts returned to an authorized participant:

(i)  because of game, platform, or system malfunction; or

(ii)  because the sports bet must be voided due to concerns regarding the integrity of the wager or game.

(2)  "Authorized sports entity" means:

(A)  a sports team or a sports team designee;

(B)  a Class 1 racetrack, as defined by Section 2026.102; or

(C)  a greyhound racetrack, as described by Subchapter D, Chapter 2025

(3)  "Cash equivalent" means an asset that is convertible to cash and approved for use in connection with authorized sports wagering. Approved cash equivalents include:

(A)  travelers checks;

(B)  foreign currency and coin;

(C)  certified checks, cashier's checks, and money orders;

(D)  personal checks and drafts;

(E)  digital, crypto, and virtual currencies;

(F)  online and mobile payment systems that support online money transfers;

(G)  credit cards and debit cards;

(H)  prepaid access instruments; and

(I)  any other form approved by the commission.

(4)  "College sport" means an athletic or sporting event in which at least one participant is a team or contestant competing on behalf or under the sponsorship of a public or private institution of higher education, regardless of where the institution is located.

(5)  "Commission" means the Texas Commission of Licensing and Regulation.

(6)  "Comptroller" means the Comptroller of Public Accounts of the State of Texas.

(7)  "Covered service" means the operation, management, or control of wagers authorized by this chapter, including the development or operation of sports wagering platforms and the provision of odds lines and risk management information. The term excludes:

(A)  payment processing and similar financial services;

(B)  customer identity, age verification, and geolocation services;

(C)  streaming or other video and data that do not include odds or line information;

(D)  telecommunications, internet service providers, and other similar services not specifically designed for use in connection with sports wagering;

(E)  other goods or services designed to support the operation, management, or control of a sports wagering platform; and

(F)  other goods or services not specifically designed for use in connection with sports wagering.

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

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

(10)  "Interactive sports wagering" means engaging in sports wagering via the internet, on a mobile device, or any other telecommunications service.

(11)  "Interactive sports wagering permit" means a permit issued by the commission that authorizes the operation of interactive sports wagering under this chapter;

(12)  "Interactive sports wagering operator" means the holder of an interactive sports wagering permit.

(13)  "Key person" means an officer or director of a sports wagering operator who:

(A)  is directly involved in the operation, management, or control of the conduct of sports wagering under this chapter; and

(B)  exercises substantial influence or control over the sports wagering operator's sports wagering activities.

(14)  "Official league data" means statistics, results, outcomes, and other data relating to a sporting event obtained for determining the outcome of tier two sports wagers under an agreement wager between a sports wagering operator and:

(A)  the relevant sports governing body that authorizes the use of the data for determining the outcome of tier two sports wagers; or

(B)  an entity expressly authorized by the sports governing body to provide the information described by this subdivision to sports wagering operators.

(15)  "Permit holder" means a person who holds a permit issued under this chapter.

(16)  "Professional sports" means an athletic or sporting event at which two or more competitors participate and one or more competitors receive compensation.

(17)  "Retail permit" means a permit issued by the commission to an entity included in Section 2005.103 that authorizes the operation of sports wagering at a location authorized by the commission, but with the operation limited to accepting in-person sports wagering only from individuals who are physically present in the location.

(18)  "Retail permit holder" means the holder of a retail permit.

(19)  "Retail sports wagering" means engaging in sports wagering at authorized locations in person.

(20)  "Service provider" means the holder of a service provider permit.

(21)  "Service provider permit" means a permit issued by the commission that authorizes the provision of covered services.

(22)  "Sporting event" or "sports event" means professional sports and athletic events, college sports and athletic events, amateur sports and athletic events, motor race events, electronic sports events, competitive video game events, or any other event approved by the commission.

(23)  "Sports wagering brand" means the names, logos, and brands by which a sports wagering operator advertises, promotes, or otherwise holds out to the public its sports wagering platform or retail sports wagering operations.

(24)  "Sports wagering operator" means:

(A)  an interactive sports wagering permit holder;

(B)  a service provider permit holder operating sports wagering on behalf of an interactive sports wagering permit holder;

(C)  a retail permit holder; or

(D)  a service provider permit holder operating sports wagering on behalf of a retail permit holder.

(25)  "Sports wagering platform" means a website, mobile application, or other interactive platform accessible via the internet or mobile, wireless, or similar communications technology that players may use to place sports wagers authorized under this chapter.

(26)  "Sports entertainment district" means a public entertainment facility, as that term is defined in Section 108.73(2), Alcoholic Beverages Code that is related infrastructure to an approved venue project, as those terms are defined in Section 334.001, Local Government Code.

(27)  "Sports facility" means:

(A)  a facility that is the primary host of a Major League Baseball, National Basketball Association, National Football League, Major League Soccer, or National Hockey League, professional sports franchise in this state and that has a seating capacity of at least 5,000 people; or

(B)  a Class 1 racetrack as defined by Section 2026.102.

(28)  "Sports governing body" means the organization that prescribes final rules and enforces codes of conduct with respect to a professional sporting event and participants in the professional sporting event and whose corporate headquarters is located in the United States.

(29)  "Sports wagering" means accepting wagers on sporting events or portions of sporting events, or on the individual performance statistics of participants in a sporting event or combination of sporting events, by any system or method of wagering, including in-person or over the internet through a website or on mobile devices. The term includes but is not limited to single-game wagers, teaser wagers, parlays, over-unders, moneylines, pools, exchange wagering, in-game wagering, in-play wagers, proposition wagers, and straight wagers. The term does not include:

(A)  fantasy or simulated games or contests as that term is defined in Section 47.01(2-a), Penal Code ; or

(B)  greyhound racing or horse racing regulated under Subtitle A-1 (Texas Racing Act).

(30)  "Sports team" means a Major League Baseball, National Basketball Association, National Football League, Major League Soccer, or National Hockey League professional sports franchise located in this state that leases, subleases, or exclusively or by a joint venture with another sports team operates a sports facility.

(31)  "Sports team designee" means any person designated by a sports team as being authorized to receive an interactive sports wagering license in lieu of the sports team.

(32)  "Tier one sports wager" means a sports wager that is not a tier two sports wager.

(33)  "Tier two sports wager" means a sports wager that is placed after the event it concerns has started.

(34)  "Youth sports" means an athletic or sporting event in which the majority of participants are under the age of 18 or are competing on behalf or under the sponsorship of one or more public or private preschools or elementary, middle, or secondary schools. The term does not include professional sports or events that occur under the sponsorship or oversight of national or international athletic bodies that are not educational institutions and that include participants both over and under the age of 18.

Sec. 2005.002.  COMPLIANCE WITH FEDERAL AND STATE LAW. (a) All sports wagering authorized under this chapter must be initiated, received, and otherwise made within this state unless otherwise determined by the commission in accordance with applicable federal and state laws.

(b)  Consistent with the intent of the United States Congress in the Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C. § 5361, et seq.), the intermediate routing of electronic data relating to internet sports wagering authorized under this chapter, including routing across state lines, does not determine the location in which such wagers are initiated, received, or otherwise made.

Sec. 2005.003.  REVIEW OF AGENCY ACTIONS. Except as otherwise provided by this chapter, all actions of the commission or department are subject to review under the Administrative Procedure Act.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 2005.051.  SPORTS WAGERING PROGRAM. (a) Subject to the requirements set forth in this chapter, the commission shall authorize an authorized sports entity to become an interactive sports wagering operator for the purpose of offering and accepting sports wagers to and from players on sporting events.

(b)  The department under the direction of the commission and executive director shall administer this chapter.

(c)  The commission may not authorize sports wagers involving youth sports.

(d)  Nothing in this chapter may be construed to apply to pari-mutuel wagering on horse-racing or greyhound racing as authorized by Subtitle A-1 or fantasy or simulated games or contests.

Sec. 2005.052.  RULES. The commission shall adopt rules for the administration of this chapter and to regulate sports wagering in this state.

Sec. 2005.053.  CERTIFICATION OF REVENUES AND EXPENSES. The commission shall:

(1)  certify monthly to the comptroller a full and complete statement of sports wagering revenues and expenses for the previous month; and

(2)  within thirty days of the end of the fiscal year, provide to the comptroller a full and complete statement of sports wagering revenues and expenses for that fiscal year, along with any recommendations for changes to this chapter that may be warranted and prudent to protect the public interest.

Sec. 2005.054.  AUDITS. (a) To ensure a proper accounting of all revenues due to the state, the commission and the comptroller each independently shall have the right to audit the books and records of a sports wagering operator that are related to sports wagering activities conducted in this state and authorized under the chapter. The commission and the comptroller shall coordinate to ensure that such requests are not duplicative or overly burdensome on the sports wagering operator.

(b)  The comptroller may perform audits of any taxes or fees paid under this chapter.

Sec. 2005.055.  VOLUNTARY EXCLUSION PROGRAM. (a) The commission shall adopt rules to establish and implement a statewide voluntary exclusion program administered by the commission.

(b)  The rules must include:

(1)  a requirement that the commission will establish and administer a statewide self-exclusion list, hosting a website that sport wagering operators may link to in order to allow individuals to register for self-exclusion, and that the commission shall regularly distribute such list to sport wagering operators;

(2)  a requirement that each sports wagering operator implement a procedure by which individuals may access the commission's website form to ask to be excluded from participation in sports wagering and under which the sports wagering operator will bar individuals on the self-exclusion list from any further participation in sports wagering for the period that they are self-excluded;

(3)  except as otherwise provided by commission rule, a requirement that an individual who participates in the voluntary exclusion program agrees to refrain from participating in sports wagering for the period of time specified at self-exclusion;

(3)  except as otherwise provided by commission rule, a requirement that a person who participates in the voluntary exclusion program may not petition the commission for removal from the program; and

(4)  a requirement that the sports wagering operator must make all commercially reasonable attempts and cause its sales agents and others operating on its behalf to make commercially reasonable efforts to cease all direct marketing efforts to persons participating in the program.

(c)  The voluntary exclusion program may not preclude a sports wagering operator and its agents and others operating on their behalf from seeking the payment of a debt accrued by a person before entering the program.

Sec. 2005.056.  RISK MANAGEMENT. The commission shall adopt rules permitting sports wagering operators to use systems that offset loss or manage or lay off risk in the operation of sports wagering under this chapter, including through liquidity pools, exchanges, or similar mechanisms in other approved jurisdiction in which the sports wagering operator or an affiliate of either or other third party also holds a license or the equivalent.

(b)  Notwithstanding Subsection (a), the rules adopted under this section must require that at all times adequate protections are maintained to ensure sufficient funds are available to pay all players.

Sec. 2005.057.  PLACES OF PUBLIC ACCOMODATION. (a) Except as provided by Subsection (b), and other than an authorized retail sports wagering location, the commission may not authorize or allow a person to:

(1)  operate or to allow the operation of a place of public accommodation, a club (including a club or association limited to dues-paying members or similar restricted groups), or a similar establishment in which computer terminals or similar access devices are intended or are made available to be used principally for the purpose of accessing a sports wagering platform; or

(2)  otherwise advertise to the general public that the place of public accommodation, club, or similar establishment is available to engage in sports wagering.

(b)  The commission may authorize:

(1)  an interactive sports wagering operator or a service provider operating sports wagering on behalf of an interactive sports wagering permit holder to establish a place of public accommodation for the purpose of accessing a sports wagering platform if it is located within an interactive sports wagering operator's sports facility or sports entertainment district; and

(2)  the advertisement of an activity described by Subsection (b)(1) at the location.

(c)  The commission shall adopt rules governing the establishment of a sports wagering public accommodation at a sports facility or sports entertainment district.

(d)  Places of public accommodation, clubs, or similar establishments that are allowed under this section are subject to all applicable state, local, criminal, zoning, or other regulatory powers that are not intended to be limited in any way by this chapter.

(e)  This section does not apply to operations and advertisement conducted by a retail permit holder or a service provider operating sports wagering on behalf of a retail permit holder.

SUBCHAPTER C. SPORTS WAGERING PERMITS

Sec. 2005.101.  INTERACTIVE SPORTS WAGERING PERMIT. (a) The commission shall issue an interactive sports wagering permit to a qualified authorized sports entity under this chapter if the applicant:

(1)  submits a completed application to the commission on a form prescribed by the commission, containing the information required by this section; and

(2)  pays to the commission a permitting fee of $500,000, which must be refunded in the event the applicant's application is denied, after deduction of the commission's expenses in considering the application.

(b)  The commission may only award an interactive sports wagering permit to an authorized sports entity as defined by this chapter. The interactive sports wagering operator or a service provider on behalf of an interactive sports wagering operator may:

(1)  offer retail sports wagering in a place of public accommodation located at its sports facility or the sports entertainment district created in connection with the sports facility;

(2)  conduct state-wide interactive sports wagering; and

(3)  operate kiosks for interactive sports wagering.

(c)  The commission may only award an interactive sports wagering permit to an authorized sports entity that is based in the United States.

(d)  The commission shall only award one interactive sports wagering permit per authorized sports entity, except that if a person owns more than one authorized sports entity, that person may only obtain one interactive sports wagering permit.

(e)  The interactive sports wagering operator shall only be permitted to hold out its sports wagering platform to the public under one brand.

(f)  The commission shall evaluate and then grant or deny each application submitted under this section in its discretion in the same manner and based on the same considerations that it uses to consider applications for service provider permits. The commission's decision is final and not appealable, except as otherwise may be required under state law.

(g)  The commission shall prescribe an application form for an interactive sports wagering permit that includes:

(1)  the applicant's proposed initial business plan, which must include the range of contemplated types and modes of sports wagering;

(2)  the applicant's proposed measures to address age and identity verification and geolocation requirements;

(3)  the applicant's proposed internal controls, including controls to ensure that no ineligible person will be able to participate in sports wagering;

(4)  the applicant's history of working to prevent compulsive gambling, including training programs for its employees;

(5)  the applicant's written information security program, including information security governance and the designation of a chief security officer of equivalent (which designation shall be a requirement for issuance of a license);

(6)  the sports wagering brand (which shall be limited to a maximum of one brand and may be different from the brand offered by a retail permit holder) under which an interactive sports wagering operator plans to hold out its sports wagering platform to the public;

(7)  any personal information the commission may determine by rule should be required concerning the applicant's key persons; and

(8)  any other information the commission considers necessary.

(h)  The commission may accept permitting or authorization to operate by another jurisdiction that is specifically determined by the commission to have similar permitting requirements, as evidence that the applicant meets the interactive sports wagering operator requirements. The commission may accept another jurisdiction's or an approved third party's testing of the interactive sports wagering platform as evidence that the platform meets any requirements mandated by commission rule.

(i)  Notwithstanding any other law, the information an applicant submits under this section shall be considered confidential and exempt from public disclosure.

(j)  An authorized applicant may elect to assign its interactive sports wagering permit to a third-party designee to handle all of the applicant's sports wagering management and operations. If the applicant makes this election, the application and disclosure requirements described by this section should be made by the designee rather than the applicant, in accordance with procedures determined by the commission.

Sec. 2005.102.  SERVICE PROVIDER PERMIT. (a) An applicant for a service provider permit shall:

(1)  submit an application to the commission on a form prescribed by the commission, containing the information required under this section; and

(2)  pay to the commission an application fee of $25,000.

(b)  An application submitted under this section must include:

(1)  the applicant's background in sports wagering or the covered service;

(2)  the applicant's experience in connection with sports wagering or other wagering activities in other jurisdictions, including the applicant's history and reputation of integrity and compliance, as well as a list of all active or lapsed permits or licenses for sports wagering or other wagering activities (including the reason for any lapse);

(3)  the applicant's written information security program, including information concerning information security governance and the designation of a chief security officer or equivalent (which designation shall be a requirement for issuance of a permit);

(4)  any personal information the commission determines by rule should be required concerning the applicant's key persons; and

(5)  any other information the commission considers necessary.

(c)  The commission shall conduct a background investigation on the applicant and key persons as considered necessary by the commission. The background investigation must include a credit history check, a tax record check, and a criminal history records check.

(d)  The commission shall grant or deny a service provider permit within 90 days of receipt of a completed application. The commission's decision is final and not appealable, except as otherwise may be required under state law.

(e)  Notwithstanding any other provision of law, the information an applicant submits under this section is considered confidential and exempt from public disclosure.

(f)  The following shall constitute the sole grounds for denial of a service provider permit:

(1)  the commission reasonably believes the applicant will be unable to satisfy the duties of a permittee described by this chapter;

(2)  the commission reasonably believes that the applicant or any of its key persons are not of good character, honesty, or integrity;

(3)  the commission reasonably believes that the applicant's or any of its key person's prior activities, criminal record, reputation, or associations are likely to:

(A)  pose a threat to the public interest;

(B)  impede the regulation of sports wagering; or

(C)  promote unfair or illegal activities in the conduct of sports wagering;

(4)  the applicant or a key person knowingly fails to comply with the provisions of this chapter or any of the commission's requirements;

(5)  the applicant or a key person knowingly fails to comply with the provisions of this chapter or any of the commission's requirements;

(6)  the applicant or a key person was convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within the 10 years before the submission date of the application;

(7)  the applicant's or a key person's license, registration, or permit to conduct sports wagering, other forms of gambling activity, or a covered service issued by any other state has been revoked; or

(8)  the applicant defaults in payment of any obligation or debt due to the state.

Sec. 2005.103.  RETAIL PERMIT. (a) The commission may award a retail permit to:

(1)  an authorized sports entity;

(2)  a sports facility that is the primary host of a Minor League Baseball, Basketball, Hockey, or Soccer professional sports franchise in this state that is affiliated with a sports team or a related sports entertainment district;

(3)  a racetrack that is not a Class 1 racetrack as defined by Section 2026.102;

(4)  a motorsports racetrack that has a seating capacity of at least 5,000 people; or

(5)  a facility operated by the PGA TOUR that is the primary host of a PGA TOUR professional golf tournament.

(b)  A person eligible to receive a retail permit under Subsection (a) may only hold a retail permit for offering retail sports wagering at any approved location by the Commission, including:

(1)  the sports facility that the sports team or its affiliate leases, subleases, or exclusively or by a joint venture with another sports team operates;

(2)  the sports entertainment district related to the sports facility;

(3)  a facility owned or exclusively leased by an authorized sports entity and approved by the commission; or

(4)  in the case of a facility described by Subsection (a)(5), the golf facility or entertainment or resort complex related to the golf facility.

(c)  A retail permit holder that is not also an interactive sports wagering operator may only conduct sports wagering with individuals who are physically present at the location authorized by the commission for retail sports wagering. A retail permit holder may operate kiosks for sports wagering at locations approved by the commission.

(d)  The retail permit holder shall only be permitted to hold out its sports wagering platform to the public under one brand. If an interactive sports wagering operator permit holder also holds a retail permit, the brand offered under the retail permit may be different from the brand offered under the interactive sports wagering operator permit.

(e)  An applicant for a retail permit shall:

(1)  submit an application to the commission on a form prescribed by the commission, containing the information required under this section; and

(2)  pay to the commission an application fee of $50,000.

(f)  An application submitted under this section must include:

(1)  the applicant's background in sports wagering or the covered service;

(2)  the applicant's experience in connection with sports wagering or other wagering activities in other jurisdictions, including the applicant's history and reputation of integrity and compliance, as well as a list of all active or lapsed permits or licenses for sports wagering or other wagering activities (including the reason for any lapse);

(3)  the applicant's written information security program, including information concerning information security governance and the designation of a chief security officer or equivalent (which designation shall be a requirement for issuance of a permit);

(4)  the sports wagering brand (maximum of one) under which the retail permit holders plans to offer retail sports wagering to the public;

(5)  any personal information the commission determines by rule should be required concerning the applicant's key persons; and

(6)  any other information the commission considers necessary.

(f)  The commission shall conduct a background investigation on the applicant and key persons as considered necessary by the commission. The background investigation must include a credit history check, a tax record check, and a criminal history records check.

(g)  The commission shall grant or deny a service provider permit within 90 days of receipt of a completed application. The commission's decision is final and not appealable, except as otherwise may be required under state law.

(h)  Notwithstanding any other provision of law, the information an applicant submits under this section is considered confidential and exempt from public disclosure.

(i)  The following shall constitute the sole grounds for denial of a retail permit:

(1)  the commission reasonably believes the applicant will be unable to satisfy the duties of a permittee described by this chapter;

(2)  the commission reasonably believes that the applicant or any of its key persons are not of good character, honesty, or integrity;

(3)  the commission reasonably believes that the applicant's or any of its key person's prior activities, criminal record, reputation, or associations are likely to:

(A)  pose a threat to the public interest;

(B)  impede the regulation of sports wagering; or

(C)  promote unfair or illegal activities in the conduct of sports wagering;

(4)  the applicant or a key person knowingly fails to comply with the provisions of this chapter or any of the commission's requirements;

(5)  the applicant or a key person was convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within the 10 years before the submission date of the application;

(6)  the applicant's or a key person's license, registration, or permit to conduct sports wagering, other forms of gambling activity, or a covered service issued by any other state has been revoked; or

(7)  the applicant defaults in payment of any obligation or debt due to the state.

(j)  An authorized applicant may elect to assign its retail permit to a third-party designee to handle all of the applicant's sports wagering management and operations. If the applicant makes this election, the application and disclosure requirements described by this section should be made by the designee rather than the applicant, in accordance with procedures determined by the commission.

Sec. 2005.104.  PERMIT RENEWAL. (a) A permit issued under this chapter shall be valid for:

(1)  if the permit application is submitted by a Class 1 Racetrack, as defined by Section 2026.102, a sports team or affiliate of the sports team, three years after the date of issuance; or

(2)  if the permit application is submitted by a designee of the sports team or the sports team's affiliate, the earlier of:

(A)  three years after the date of issuance; or

(B)  the date of the expiration of any contract wager between the sports teams or an affiliate of the sports team and the designee of the sports team or affiliate authorizing the designee to handle the sports team's or affiliate's sports wagering management and operations.

(b)  At least 60 days before the expiration of a permit, the permit holder shall submit a renewal application on a form prescribed by the commission. The permit holder must include a renewal fee of:

(1)  $100,000 for renewal of an interactive sports wagering permit;

(2)  $25,000 for renewal of a retail permit; and

(3)  $10,000 for renewal of a service provider permit.

(c)  The commission may deny an application for permit renewal if the commission finds grounds for denial set forth in Section 2005.101 for an interactive sports wagering permit, Section 2005.102 for a service provider permit, or Section 2005.103 for a retail permit holder.

SUBCHAPTER D. REQUIREMENTS FOR PERMIT HOLDERS AND OPERATORS

Sec. 2005.151.  DUTIES OF SPORTS WAGERING OPERATORS. (a) A sports wagering operator shall ensure that it implement reasonable measures:

(1)  to ensure that only persons physically located in the state or as otherwise may be authorized by the commission are able to place a wager through its sports wagering platform;

(2)  to protect the confidential information of players using its sports wagering platform;

(3)  to prevent wagering on prohibited events as set forth in this chapter or as otherwise determined by the commission;

(4)  to prevent persons from placing wagers as agents or proxies for others;

(5)  to allow persons to restrict themselves from placing wagers through its sports wagering platform as set forth in this chapter, including sharing, at the person's request, that person's request for self-exclusion with the commission for the sole purpose of disseminating the request to other sports wagering operators;

(6)  to establish procedures to detect suspicious or illegal wagering activity, including measures to report suspicious or illegal activity to the commission; and

(7)  to provide for the withholding or reporting of income tax of players where required by applicable state or federal law.

(b)  For three years after a sporting event occurs, interactive sports wagering operators must maintain records on:

(1)  all wagers, including the identity of the player, the amount and type of wager, the time and location of the wager (including IP address if available), and the outcome of the wager; and

(2)  suspicious or illegal wagering activity.

(c)  An interactive sports wagering operator must disclose the records described in Subsection (b) to the commission upon request.

(d)  If a sports governing body has notified the commission that real-time information sharing for wagers placed on its sporting events is necessary and desirable, sports wagering operators must share with that sports governing body or its designee in real time, at the account level:

(1)  anonymized information regarding a wager;

(2)  the amount and type of wager;

(3)  the time the wager was place;

(4)  the location of the wager, including the IP address if applicable;

(5)  the outcome of the wager; and

(6)  records of abnormal wagering activity.

(e)  A sports governing body may use the information described by Subsection (d) solely for integrity purposes. For purposes of Subsection (d), "real time" means on a commercially reasonable periodic interval, but in any event not less than once every 72 hours.

(f)  In advertising its sports wagering operation, a sports wagering operator must ensure that its advertisements:

(1)  do not target persons under the age of 21;

(2)  disclose the identity of the sports wagering operator;

(3)  provide information about or links to resources related to gambling addiction and prevention; and

(4)  are not misleading to a reasonable person.

Sec. 2005.152.  ESTABLISHMENT OF INTERACTIVE ACCOUNTS. (a) The sports wagering operator is responsible for verifying the identity of a player and ensuring that the player is at least 21 years of age. This section does not mean that a patron is required to have an account to wager with a retail permit holder at the retail permit holder's facility.

(b)  A player may not have more than one account with each sports wagering operator.

(c)  The following persons are prohibited from the placement of sports wagers:

(1)  any person under the age of 21;

(2)  any person who has requested and not revoked exclusion from sports wagering under this chapter or who otherwise has been adjudicated by law as prohibited from engaging in sports wagering;

(3)  any member, officer, or employee of the department or the commission;

(4)  any employee or key person of a permit holder, only as to the affiliated permittee's sports wagering platform; and

(5)  any participant, including athlete, coach, trainer, referee, or other official, and any employee or other staff of a participant, in a competition that is the subject of sports wagering under this chapter (but only as to the league with which the individual is affiliated);

(6)  any employee or other staff of a governing or authorizing league or similar sponsoring organization for a competition that is the subject of sports wagering under this chapter (but only as to the league with which the individual is affiliated).

(d)  A sports wagering operator may not be charged with violation of Subsection (c)(5) or (6) absent notice or actual knowledge that a player is within the scope of those provisions.

(d)  In determining which persons are excluded from placing wagers under Subsection (c)(5) or (6), a sports wagering operator shall use any list of persons that is provided by the commission.

(e)  A sports wagering account:

(1)  must be established in the name or on behalf of the player who is a natural person and may not be in the name of any beneficiary, custodian, joint trust, corporation, partnership, or any other entity;

(2)  must be established through the sports wagering operator's sports wagering platform or a specialized website or interface established for that purpose;

(3)  must include terms that:

(A)  prohibit the transfer or sale of an account or account balance to another registered player;

(B)  prohibit the use of any virtual private network or other technology that may obscure or falsify the players' physical location;

(C)  prohibit any form of collusion, cheating, or other unlawful activity;

(D)  affirm that the player meets all eligibility requirements for registration; and

(E)  authorize the provision of notices and other required communications either through a designated mobile or other interface or to an electronic mail address designated by the player.

(f)  The sports wagering operator may allow for the establishment of sports wagering accounts remotely, provided that it has in place measures sufficient to verify the age and identity of the player.

(g)  A sports wagering operator may suspend or terminate a sports wagering account if:

(1)  it is determined that the player has provided any false or misleading information in connection with the opening of the account or has engaged in cheating or other unlawful conduct;

(2)  the player is or has been barred from placing wagers in this state;

(3)  the player is or otherwise becomes ineligible under this chapter;

(4)  the sports wagering operator determines that it lacks sufficient information to verify the age and eligibility of the player; or

(5)  for any other reason at the sole discretion of the sports wagering operator, provided that it is not on the basis of a player's actual or believed sex, gender identity, race, religion, national origin, sexual orientation, or other lawfully protected characteristic.

(h)  In the event of termination for any reason other than set forth in Subsection (g)(1), the player shall be provided a timely ability to access and withdraw any funds remaining in the sports wagering account.

Sec. 2005.152.  "LAYOFF" WAGERING. Nothing in this subchapter is intended to prohibit sports wagering operators from engaging in risk management measures commonly known as "layoff" wagering in the ordinary course of business.

SUBCHAPTER E. COMPETITION INTEGRITY; PROHIBITED EVENTS

Sec. 2005.201.  PROHIBITION ON YOUTH SPORTS WAGERING. No person shall place or accept a wager on youth sports.

Sec. 2005.202.  MONITORING PROGRAM. Before the commencement of sports wagering under this chapter, the commission shall adopt rules and a monitoring program sufficient to protect the integrity of all sports wagering under this chapter and that provides for a sharing of suspicious activities on wagering with sports wagering operators and regulators in other states.

Sec. 2005.203.  AUTHORITY TO SUSPEND WAGERING. The commission, as necessary to protect the integrity of a competition or its participants or as set forth in Section 2005.204, shall have the authority to suspend wagering on any competition, category or type of competition, any other aspect of a competition.

Sec. 2005.204.  LIMITATIONS ON CERTAIN SPORTS WAGERING FOR GOOD CAUSE. (a) If a sports governing body believes that the type, form, or category of sports wagering on that sports governing body's sporting events has the potential to undermine the integrity or perceived integrity of the sports governing body or its sporting events, the sports governing body may submit to the commission in writing a request to restrict, limit, or exclude a certain type, form, or category of sports wagering for that sports governing body's sporting events. The sports governing body shall provide the request in a form and manner as the commission may reasonably require.

(b)  The commission may request comment from sports wagering operators on all requests described by Subsection (a) before granting the request.

(c)  After giving due consideration to all comments received under Subsection (b), the commission shall, upon a demonstration of good cause from the requestor that the type, form, or category of sports wagering is likely to undermine the perceived integrity or the integrity of sports governing body or its sporting events, grant the request.

(d)  If feasible, the commission must respond to a request under Subsection (a) concerning a particular event before the start of the event. If it is not feasible to respond before the start of the event, the commission must respond no later than seven days after the request is made.

(e)  If the commission determines that the requestor under Subsection (a) is more likely than not to prevail in successfully demonstrating good cause for its request, the commission may provisionally grant the request until the commission makes a final determination as to whether the requestor has demonstrated good cause. Absent a provisional grant by the commission, a sports wagering operator may continue to offer sports wagering on sporting events that are the subject of a request under this section during the pendency of the commission's consideration of the request.

Sec. 2005.205.  COOPERATION WITH INVESTIGATIONS. The commission and sports wagering operators shall cooperate with investigations conducted by sports governing bodies or law enforcement agencies, including by providing or facilitating the provision of account-level wagering information and audio or video files relating to persons placing wagers.

Sec. 2005.206.  PROMPT REPORTING TO COMMISSION. (a) A sports wagering operator must promptly report to the commission any information relating to:

(1)  criminal or disciplinary proceedings commenced against the sports wagering operator in connection with its operations;

(2)  abnormal wagering activity or patterns that may indicate a concern with the integrity of a sporting event;

(3)  any potential breach of the relevant sports governing body's internal rules and codes of conduct pertaining to sports wagering;

(4)  any other conduct that corrupts a wagering outcome of a sporting event for purposes of financial gain, including match fixing; and

(5)  suspicious or illegal wagering activities, including use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, using agents to place wagers, and using false identification.

(b)  Sports wagering operators must promptly report information relating to conduct described in Subsections (a)(2), (3), and (4) to the relevant sports governing body.

Sec. 2005.207.  CONFIDENTIALITY OF INFORMATION. (a) A sports wagering operator must maintain the confidentiality of information provided by a sports governing body to the operator, unless disclosure is required by this chapter, the commission, other law, or court order.

(b)  The commission, and sports wagering operators must maintain the confidentiality of all information relating to conduct described in Section 2005.206(a)(2), (3), and (4), unless disclosure is required by this chapter, other law, or court order, or as authorized by the relevant sports governing body.

(c)  Nothing in this chapter prohibits the commission or a sports wagering operator from making a confidential disclosure to another sports wagering operator, a sports governing body, a sports wagering regulating entity, a law enforcement entity, or other party for the purpose of preventing or investigating conduct that corrupts or could corrupt the outcome of a sporting event, including match fixing.

Sec. 2005.208.  DATA SOURCES. (a) Except as provided by Subsection (c), a sports wagering operator may use any data source to determine the results of sports wagers, provided that the data is not obtained directly or indirectly from live event attendees who collect the data in violation of the terms of admittance to an event or through automated computer programs that compile data from the internet in violation of the terms of service of the relevant website or other internet platform.

(b)  A sports wagering operator may use any data source for determining the result of a tier one sports wager.

(c)  A sports governing body may notify the commission that it desires sports wagering operators to use official league data to settle tier two sports wagers. A notification under this subsection must be made in accordance with forms and procedures prescribed by the commission. The commission shall notify each sports wagering operator of the sports governing body's notification not later than the fifth day after the department's receipt of the notification. If a sports governing body does not notify the commission of its desire to supply official league data, a sports wagering operator may use any data source for determining the result of a tier two sports wager on a professional sporting event of the league governed by the sports governing body subject to the limitations of Subsection (a).

(d)  Not later than the sixtieth day after the commission notifies each sports wagering operator as required by Subsection (c), a sports wagering operator must use only official league data to determine the results of tier two sports wagers on professional sports events of the league governed by the sports governing body, unless any of the following apply:

(1)  the sports governing body or its applicable designee is unable to provide a feed, on commercially reasonable terms, of official league data to determine the results of a tier two sports wager, in which case sports wagering operators may use any data source for determining the results of tier two sports wagers until the data feed becomes available on commercial reasonable terms; or

(2)  a sports wagering operator demonstrates to the commission that the sports governing body has not provided or offered to provide a feed of official league data to the sports wagering operator on commercially reasonable terms, according to criteria described in Subsection (e).

(e)  The commission may consider the following information in determining whether a sports governing body has provided or offered to provide a feed of official league data on commercially reasonable terms, provided that no single factor on its own will be deemed conclusive evidence that official league data is being offered on terms that are not commercially reasonable:

(1)  the availability of a sports governing body's official league data for tier two sports wagers from one or more authorized source;

(2)  market information regarding the purchase, in Texas and in other states, by sports wagering operators of data for all sports from all authorized sources;

(3)  the nature and quantity of the data, including the quality and complexity of the process used for collecting the data; and

(4)  any other information the commission considers relevant.

(f)  During any time period in which the commission is determining whether official league data is available on commercially reasonable terms under Subsections (d) and (e), a sports wagering operator may use any data source for determining the results of any tier two sports wagers subject to the limitations of Subsection (a). The commissioner shall make a determination under Subsections (d) and (e) not later than the 60th day after a sports wagering operator notifies the commission that it desires to demonstrate that a sports governing body has not provided or offered to provide a feed of official league data to the sports wagering operator on commercially reasonable terms. If the commission determines that the requestor is more likely than not to fail in successfully making the demonstration under this subsection, the commission may provisionally deny the request until the commission makes a final determination as to whether the requestor has made the demonstration.

Sec. 2005.209.  COMMERCIAL AGREEMENTS. Any sports governing body may enter into a commercial agreement with a sports wagering operator under which the sports governing body may share in the amount wager or revenues derived from sports wagering on the sports governing body's sporting events. A sports governing body is not required to obtain a permit or other approval from the commission to lawfully accept these amounts or revenues.

SUBCHAPTER F. TAXES

Sec. 2005.251.  IMPOSITION OF TAX. (a) A sports wagering operator shall pay a tax of ten percent on the sports wagering operator's adjusted gross revenue.

(b)  The tax imposed under this section is due monthly to the comptroller and shall be remitted on or before the 20th day of the next succeeding calendar month. If the sports wagering operator's account necessitates corrections to a previously remitted tax, it shall document the corrections when it pays the following month's taxes.

(c)  If the sports wagering operator's adjusted gross revenue for a month is a negative amount, the sports wagering operator may carry over the negative amount to a return filed for a subsequent month and deduct this amount from its tax liability for the subsequent month, provided that the amount may not be carried over and deducted against tax liability in any month that is more than 12 months after the month in which the amount was accrued.

(d)  Any taxes collected under this section and any fees collected by the commission under this chapter that are in excess of what the department and commission need to implement this chapter shall be dedicated to providing special education and related services to eligible students in addition to and as a supplement to the funding provided under the Texas Education Code, Section 48.102. The special education allotment advisory committee established under the Texas Education Code, Section 48.1021, shall make recommendations for the use of these supplemental fees, and the commissioner by rule shall determine the use of these supplemental funds based on the advisory committee's recommendation.

Sec. 2005.252.  NO OTHER TAXATION PERMITTED. A sports wagering operator may not be subjected to an excise tax, license tax, permit tax, privilege tax, amusement tax, sales tax, or occupation tax that is imposed upon licensees by the state or any political subdivision of the state, except as provided by this chapter.

SUBCHAPTER G. PENALTIES

Sec. 2005.301.  CRIMINAL PENALTIES. (a) A person commits an offense if the person knowingly offers or engages in sports wagering in violation of this chapter. An offense under this subsection is a Class B misdemeanor.

(b)  A person commits an offense if the person knowingly attempts to suborn, collude, or otherwise conspire to impermissibly influence the outcome of any competition or aspect of any competition that is the subject of sports wagering under this chapter. An offense under this subsection is a state jail felony.

(c)  A person commits an offense if the person knowingly or willfully falsifies, conceals, or misrepresents a material fact or knowingly or willfully makes a false, fictitious, or fraudulent statement or representation in any application under Section 2005.101 or Section 2005.102. An offense under this section is a state jail felony.

Sec. 2005.302.  CIVIL PENALTIES. If the commission determines that a permit holder has intentionally violated any material provision of this chapter or a rule adopted by the commission under this chapter, the commission, after providing at least 15 days notice and a hearing, may:

(1)  suspend or revoke the permit holder's permit; and

(2)  impose a monetary penalty not to exceed $10,000 for each violation.

SECTION 3.  Section 47.01, Penal Code, is amended by amending Subdivision (1) and adding Subdivision (2-a) to read as follows:

(1)  "Bet" means an agreement to win or lose something of value solely or partially by chance. A bet does not include:

(A)  contracts of indemnity or guaranty, or life, health, property, or accident insurance;

(B)  an offer of a prize, award, or compensation to the actual contestants or participants in a bona fide contest for the determination of skill, speed, strength, or endurance or to the owners of animals, vehicles, watercraft, or aircraft entered in a contest; [~~or~~]

(C)  an offer of merchandise, with a value not greater than $25, made by the proprietor of a bona fide carnival contest conducted at a carnival sponsored by a nonprofit religious, fraternal, school, law enforcement, youth, agricultural, or civic group, including any nonprofit agricultural or civic group incorporated by the state before 1955, if the person to receive the merchandise from the proprietor is the person who performs the carnival contest; or

(D)  an offer of a prize, award, or compensation to the participants in a fantasy or simulated sports game or contest.

(2-a)  "Fantasy or simulated sports game or contest" means a bona fide contest, reflecting the knowledge and skill of the participants, in which:

(A)  participants assemble a fictional sports team composed of actual professional or amateur athletes to compete against other fictional sports teams assembled by other participants for a prize, award, or compensation;

(B)  the value of any prize, award, or compensation is established in advance of the beginning of the game or contest;

(C)  the outcome of the game or contest is determined by the accumulated statistical performances of the individual athletes on a participant's fictional sports team; and

(D)  the outcome of the game or contest is not based solely on the score, point spread, or performance of a single professional or amateur team or athlete.

SECTION 4.  Section 47.02(c), Penal Code, is amended to read as follows:

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

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

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

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

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

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

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

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

SECTION 5.  Section 47.09(a), Penal Code, is amended to read as follows:

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

(1)  was authorized under:

(A)  Chapter 2001, Occupations Code;

(B)  Chapter 2002, Occupations Code;

(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 6.  Not later than the 90th day after the effective date of this Act, the Texas Commission on Licensing and Regulation shall publish applications and adopt rules allowing for the submission of applications for interactive sports wagering permits, service provider permits, and retail permits. The initial application period shall close 45 days after the publication of the application and adoption of rules. The commission shall complete the review of all applications received and award interactive sports wagering permits, service provider permits, and retail permits not later than the 30th day after the close of the initial application period. Additional available permits may be issued on a rolling basis thereafter.

SECTION 7.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 8.  This Act takes effect January 1, 2022, but only if the constitutional amendment authorizing the legislature to legalize sports wagering in this state is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.