

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

1 poker club in the performance of an activity listed in this
2 subdivision.

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

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

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

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

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

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

18 (E) signs a lease for a poker club;

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

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

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

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

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

26 (A) a member of a poker club physically present
27 at the poker club places a bet based on the highest or lowest

1 ranking hand of cards held by the member or on a combination of
2 highest and lowest cards held by the member;

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

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

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

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

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

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

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

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

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

1 the county order prevails.

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

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

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

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

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

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

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

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

12 Sec. 234.168. CRIMINAL PENALTY. (a) A person commits an
13 offense if the person intentionally or knowingly operates a poker
14 club in violation of a regulation or order adopted under Section
15 234.163.

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

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

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

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

27 (c) A person who is subject to prosecution under Section

1 234.168 and any other law may be prosecuted under either or both
2 laws.

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