

By: Dutton

H.B. No. 1121

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of sports betting; requiring an occupational permit; authorizing a fee; imposing a tax; creating criminal offenses; providing a civil penalty.

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. SPORTS BETTING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2005.001. DEFINITIONS. In this chapter:

(1) "College sport" means an athletic event:

(A) in which at least one participant is a team from a public or private institution of higher education, regardless of the location of the institution; and

(B) that is not a Texas college sport.

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

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

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

(5) "Professional sport" means an athletic event involving at least two human competitors who receive compensation, in excess of their expenses, for participating in the event. The

1 term does not include greyhound racing or horse racing regulated
2 under Subtitle A-1 (Texas Racing Act).

3 (6) "Sports betting" means placing a wager on a
4 professional sport or college sport competition. The term does not
5 include wagering on greyhound racing or horse racing regulated
6 under Subtitle A-1 (Texas Racing Act).

7 (7) "Sports betting platform" means an Internet
8 website, an application for a wireless telecommunication device, or
9 any other similar technology that allows sports bettors to engage
10 in sports betting.

11 (8) "Sports bettor" means an individual physically
12 located in this state who participates in sports betting.

13 (9) "Texas college sport" means an athletic event in
14 which at least one participant is a team from a Texas public or
15 private institution of higher education.

16 (10) "Youth sport" means an athletic event:

17 (A) involving a participant who is 17 years of
18 age or younger; or

19 (B) in which at least one participant is a team
20 from a public or private elementary, middle, or secondary school,
21 regardless of the location of the school.

22 SUBCHAPTER B. POWERS AND DUTIES

23 Sec. 2005.051. SPORTS BETTING PROGRAM. (a) The commission
24 shall operate a sports betting program under the direction of the
25 executive director that allows applicants to apply for sports
26 betting operation permits to engage in sports betting operations in
27 this state.

1 (b) The commission may establish a sports betting program
2 directed by the executive director that authorizes the department
3 to operate a sports betting platform. Any revenue received from a
4 sports betting platform operated by the department that exceeds the
5 expenses necessary to operate the platform shall be deposited to
6 the credit of the foundation school fund.

7 (c) The executive director may:

8 (1) require bond or other surety satisfactory to the
9 executive director from sports betting operation permit holders in
10 the amount provided by rules adopted under this chapter;

11 (2) suspend, revoke, or refuse to renew a sports
12 betting operation permit issued under this chapter; and

13 (3) enter into contracts for the operation of the
14 sports betting program established under this section and enter
15 into contracts related to sports betting with other states,
16 provided that any contract entered into by the executive director
17 contains a provision prohibiting assignment of the contract except
18 with specific approval of the executive director.

19 Sec. 2005.052. RULES. The commission shall adopt rules
20 necessary to protect the public health and safety, administer this
21 chapter, and regulate a sports betting program established under
22 this chapter.

23 Sec. 2005.053. REPORTS. (a) The executive director shall
24 provide to the commission, the comptroller, the governor, and the
25 chairs of the standing committees of the senate and house of
26 representatives with jurisdiction over state finances and
27 appropriations a monthly statement of the sports betting revenues

1 received by the department and the expenses incurred by the
2 department in regulating sports betting for the preceding month.

3 (b) The executive director shall submit to the governor and
4 the legislature an annual report that includes:

5 (1) a statement of the sports betting revenues
6 received by the department and the expenses incurred by the
7 department in regulating sports betting for the preceding state
8 fiscal year; and

9 (2) any recommendations, including statutory
10 amendments, of the executive director or commission related to
11 regulating sports betting.

12 (c) The executive director shall immediately report to the
13 governor and the legislature any matter that requires an immediate
14 change in state law to prevent abuse and circumvention of this
15 chapter or rules adopted under this chapter or to rectify
16 undesirable conditions in connection with the administration or
17 operation of a sports betting program.

18 SUBCHAPTER C. SPORTS BETTING REGULATION

19 Sec. 2005.101. SPORTS BETTING OPERATION PERMIT REQUIRED. A
20 person may not conduct a sports betting operation in this state
21 unless the person holds a sports betting operation permit issued
22 under this chapter.

23 Sec. 2005.102. APPLICATION AND FEE FOR SPORTS BETTING
24 OPERATION PERMIT; OFFENSE. (a) An applicant for a sports betting
25 operation permit shall submit to the department:

26 (1) an application on a form prescribed by the
27 executive director, containing the information prescribed in

1 Subsection (b); and

2 (2) a fee of \$250,000.

3 (b) An application for a sports betting operation permit
4 must include the following information:

5 (1) the applicant's experience in sports betting;

6 (2) the applicant's experience in wagering activities
7 in this state and other jurisdictions, including the applicant's
8 history and reputation of operational integrity and regulatory
9 compliance;

10 (3) the applicant's proposed internal controls,
11 including controls to ensure that an individual who is excluded
12 from participating in sports betting does not participate in sports
13 betting;

14 (4) the applicant's history of preventing compulsive
15 gambling, including employee training programs; and

16 (5) any other information the executive director
17 considers necessary.

18 (c) The department shall conduct a background investigation
19 on each applicant for a sports betting operation permit. The
20 background investigation must include a credit history check, a tax
21 record check, and a criminal history record check.

22 (d) The executive director may not issue permits for more
23 than five sports betting operations to operate at any time. If more
24 applicants submit applications for permits than the permits
25 available, the executive director shall issue the number of
26 available permits to the applicants the executive director
27 determines will best:

1 (1) perform the duties of a sports betting operation
2 permit holder; and

3 (2) maximize revenue to this state.

4 (e) A sports betting operation permit that is revoked or
5 expired is not counted for purposes of the maximum number of permits
6 authorized by Subsection (d).

7 (f) The executive director shall approve an application and
8 grant a sports betting operation permit not later than the 60th day
9 after the date the application is received unless the executive
10 director:

11 (1) is prohibited from issuing additional permits
12 under Subsection (d); or

13 (2) finds an applicable ground for denial under
14 Section 2005.103.

15 (g) The executive director's decision under Subsection (f)
16 is final unless appealed in accordance with this chapter.

17 Sec. 2005.103. DENIAL OF SPORTS BETTING OPERATION PERMIT
18 ISSUANCE OR RENEWAL. The executive director may deny issuance or
19 renewal of a sports betting operation permit if:

20 (1) the executive director reasonably believes:

21 (A) the applicant is unable to satisfy the duties
22 of a permit holder imposed under Section 2005.107;

23 (B) the applicant or any officer or director of
24 the applicant lacks good character, honesty, or integrity; or

25 (C) the applicant's, officer's, or director's
26 prior activities, criminal history, reputation, or associations
27 are likely to:

1 (i) pose a threat to the public interest;
2 (ii) impede the regulation of sports
3 betting; or
4 (iii) promote unfair or illegal activities
5 in the conduct of sports betting;

6 (2) the applicant, officer, or director knowingly
7 makes a false statement of material fact or deliberately fails to
8 disclose information requested by the executive director;

9 (3) the applicant, officer, or director knowingly
10 fails to comply with this chapter, rules adopted under this
11 chapter, or any requirements of the executive director;

12 (4) the applicant, officer, or director was convicted
13 of a felony, a crime of moral turpitude, or any criminal offense
14 involving dishonesty or breach of trust in the 10 years preceding
15 the date the permit application is submitted;

16 (5) the applicant's license, registration, or permit
17 to conduct a sports betting operation issued by any other
18 jurisdiction has been suspended or revoked;

19 (6) the applicant defaults in payment of any
20 obligation or debt due to this state; or

21 (7) the applicant's application is incomplete.

22 Sec. 2005.104. BOND REQUIRED. Before issuance of a sports
23 betting operation permit, each permit holder must execute a bond
24 cosigned by a surety company authorized to conduct business in this
25 state in the amount required by commission rule.

26 Sec. 2005.105. RENEWAL OF SPORTS BETTING OPERATION PERMIT.

27 (a) A sports betting operation permit issued under this subchapter

1 expires on the third anniversary of the date the permit is issued.

2 (b) Not later than the 60th day before the date a sports
3 betting operation permit expires, a permit holder wishing to renew
4 the permit shall submit to the department:

5 (1) a renewal application on a form prescribed by the
6 executive director; and

7 (2) a renewal fee of \$200,000.

8 (c) The executive director may deny a sports betting
9 operation permit renewal if the executive director finds a ground
10 for denial under Section 2005.103.

11 (d) The executive director's action is final unless
12 appealed in accordance with this chapter.

13 Sec. 2005.106. CRIMINAL PENALTY. (a) Any person who
14 knowingly falsifies, conceals, or misrepresents a material fact or
15 knowingly makes a false, fictitious, or fraudulent statement or
16 representation in any application for a sports betting operation
17 permit under this subchapter commits an offense.

18 (b) An offense under Subsection (a) is a Class A
19 misdemeanor.

20 Sec. 2005.107. DUTIES OF SPORTS BETTING OPERATION PERMIT
21 HOLDERS. (a) A sports betting operation permit holder shall ensure
22 that the permit holder's sports betting operation takes reasonable
23 measures to:

24 (1) allow only individuals physically located in this
25 state to place bets through the permit holder's sports betting
26 platform;

27 (2) protect the confidential information of sports

1 bettors using the permit holder's sports betting platform;

2 (3) prevent betting that is prohibited under this
3 chapter or other state law;

4 (4) allow an individual to restrict the individual's
5 access to placing a bet with the permit holder's sports betting
6 operation, including sharing with the department on the
7 individual's request the restriction for the sole purpose of the
8 department disseminating the request to other permit holders;

9 (5) establish procedures to detect suspicious or
10 illegal betting activity, including measures to immediately report
11 the activity to the department; and

12 (6) provide for the appropriate withholding of the
13 applicable amount of state tax as required by Section 2005.108 and
14 any federal income tax required under other laws or by rule for
15 persons who receive income from sports betting.

16 (b) A sports betting operation permit holder shall maintain
17 records on:

18 (1) all sports betting placed with the permit holder,
19 including records of:

20 (A) a sports bettor's personal information;

21 (B) the amount and type of bet;

22 (C) the time and location of the bet; and

23 (D) the outcome of the bet; and

24 (2) suspicious or illegal sports betting activity.

25 (c) A sports betting operation permit holder shall disclose
26 the records described in Subsection (b) to the department on
27 request and shall maintain the records until at least the third

1 anniversary of the date the related sports event occurs.

2 (d) A sports betting operation permit holder shall ensure
3 that advertisements for its sports betting operations:

4 (1) disclose the identity of the permit holder;

5 (2) provide information about or links to resources
6 related to gambling addiction;

7 (3) are not misleading to a reasonable person; and

8 (4) do not target persons under the age of 21.

9 (e) A sports betting operation permit holder may not
10 sublicense, convey, concede, or otherwise transfer a permit to a
11 third party.

12 (f) A sports betting operation permit holder is prohibited
13 from holding itself out to the public as a sports betting operation
14 under more than two brands.

15 (g) A sports betting operation permit holder shall
16 conspicuously display the permit holder's identity to sports
17 bettors on any sports betting platform operated by the permit
18 holder.

19 Sec. 2005.108. TAX; USE OF TAX REVENUE. (a) A tax of 6.25
20 percent is imposed on each bet placed by a sports bettor under this
21 chapter. The tax is to be collected by the sports betting operation
22 permit holder at the time the bet is placed.

23 (b) The tax collected under this section is payable monthly
24 to the department, and the sports betting operation permit holder
25 shall remit the collected taxes on or before the 20th day of the
26 next calendar month.

27 (c) If the sports betting operation permit holder's

1 accounting necessitates corrections to a previously remitted tax,
2 the permit holder shall document the corrections when the following
3 month's taxes are paid.

4 (d) The department shall deposit tax revenue collected
5 under this section to the credit of the foundation school fund.

6 Sec. 2005.109. LIQUIDITY POOLS. (a) The commission may
7 adopt rules authorizing sports betting operation permit holders to
8 offset loss and manage risk, directly or with a third party approved
9 by the department, through the use of a liquidity pool in this state
10 or another jurisdiction provided that the permit holder, or an
11 affiliate of the permit holder, is licensed or otherwise authorized
12 by that jurisdiction to operate a sports betting business.

13 (b) A sports betting operation permit holder's use of a
14 liquidity pool does not eliminate the permit holder's duty to
15 ensure that sufficient funds are available to pay bettors.

16 Sec. 2005.110. INTERMEDIATE ROUTING OF ELECTRONIC DATA.

17 (a) Sports betting offered to a sports bettor in this state must be
18 initiated and received within this state unless otherwise
19 authorized by federal law.

20 (b) The intermediate routing of electronic data relating to
21 sports betting authorized under this chapter does not determine the
22 location where a bet is initiated and received for purposes of
23 determining compliance with this chapter.

24 SUBCHAPTER D. DISCIPLINARY ACTIONS AND PENALTIES

25 Sec. 2005.151. CIVIL PENALTIES; SUSPENSION AND REVOCATION
26 OF SPORTS BETTING OPERATION PERMIT. (a) If the executive director
27 determines a sports betting operation permit holder has violated

1 this chapter or rules adopted under this chapter, the executive
2 director in accordance with Chapter 51 may:

- 3 (1) suspend or revoke the permit holder's permit; and
4 (2) impose a monetary penalty not to exceed \$1,000 for
5 each violation of this chapter.

6 (b) An action taken by the executive director under this
7 section is final unless appealed in accordance with Sec. 2005.152.

8 Sec. 2005.152. APPEAL. (a) The commission shall hear and
9 decide an appeal of any denial of a sports betting operation permit
10 by the executive director or suspension or revocation of a permit
11 under this chapter.

12 (b) The action of the commission in granting or denying a
13 sports betting operation permit or suspending or revoking a permit
14 under this chapter may be referred to the State Office of
15 Administrative Hearings for a contested case hearing.

16 Sec. 2005.153. PROHIBITED BETTING; OFFENSES. (a) A person
17 commits an offense if the person places or accepts a bet on Texas
18 college sports or youth sports.

19 (b) A person commits an offense if the person knowingly
20 accepts or redeems or offers to accept or redeem a sports bet made
21 by or on behalf of a person under 21 years of age.

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

23 (d) If conduct that constitutes an offense under this
24 section also constitutes an offense under another law, the actor
25 may be prosecuted under this section, the other law, or both.

26 Sec. 2005.154. PERSONS PROHIBITED FROM BETTING; OFFENSE.

27 (a) A person commits an offense if the person places a sports bet

1 and the person is:

2 (1) a member, officer, or employee of the commission
3 or the department;

4 (2) a sports betting operation permit holder or an
5 officer, director, or employee of a permit holder;

6 (3) an officer, director, or employee of any entity
7 working directly on a contract relating to sports betting with the
8 department; or

9 (4) a competitor, coach, trainer, employee, or owner
10 of a team in a sports event, or any referee for a sports event, and
11 the actor places the sports bet on that event.

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

13 (c) If conduct that constitutes an offense under this
14 section also constitutes an offense under another law, the actor
15 may be prosecuted under this section, the other law, or both.

16 Sec. 2005.155. OPERATION AND ADVERTISING OF UNPERMITTED
17 FACILITY PROHIBITED; CIVIL PENALTY. (a) A person may not make the
18 person's premises available for placing wagers on sports betting
19 using the Internet or advertise that the person's premises may be
20 used for that purpose unless the person holds a sports betting
21 operation permit issued under this chapter.

22 (b) The executive director may impose a monetary penalty for
23 each violation of this section. For a person determined to have
24 made the person's premises available for placing wagers on sports
25 betting using the Internet, the penalty may not exceed \$1,000 per
26 day per individual who places a bet. For a person determined to have
27 advertised that the person's premises may be used for that purpose,

1 the penalty may not exceed \$10,000 per violation.

2 SECTION 2. Section 47.02(c), Penal Code, is amended to read
3 as follows:

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

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

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

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

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

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

17 (6) [~~5~~] was permitted under Subtitle A-1, Title 13,
18 Occupations Code (Texas Racing Act); or

19 (7) [~~6~~] consisted entirely of participation in a
20 drawing for the opportunity to participate in a hunting, fishing,
21 or other recreational event conducted by the Parks and Wildlife
22 Department.

23 SECTION 3. Section 47.09(a), Penal Code, is amended to read
24 as follows:

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

27 (1) was authorized under:

- 1 (A) Chapter 2001, Occupations Code;
- 2 (B) Chapter 2002, Occupations Code;
- 3 (C) Chapter 2004, Occupations Code;
- 4 (D) Chapter 2005, Occupations Code;
- 5 (E) Subtitle A-1, Title 13, Occupations Code
- 6 (Texas Racing Act); or
- 7 (F) [~~(E)~~] Chapter 280, Finance Code;
- 8 (2) consisted entirely of participation in the state
- 9 lottery authorized by Chapter 466, Government Code; or
- 10 (3) was a necessary incident to the operation of the
- 11 state lottery and was directly or indirectly authorized by:
- 12 (A) Chapter 466, Government Code;
- 13 (B) the lottery division of the Texas Lottery
- 14 Commission;
- 15 (C) the Texas Lottery Commission; or
- 16 (D) the director of the lottery division of the
- 17 Texas Lottery Commission.

18 SECTION 4. This Act takes effect January 1, 2022, but only

19 if the constitutional amendment authorizing the legislature to

20 legalize wagering on professional and collegiate sporting events in

21 this state is approved by the voters. If that amendment is not

22 approved by the voters, this Act has no effect.