By:  Kuempel H.B. No. 2843

A BILL TO BE ENTITLED

AN ACT

relating to the authorization, licensing, and regulation of casino gaming and sports wagering in this state, to the creation, powers, and duties of the Texas Gaming Commission, to support of the horse racing industry and reform of horse racing and greyhound racing conducted by certain persons, and to other provisions related to gambling; imposing and authorizing administrative and civil penalties; imposing taxes; imposing and authorizing fees; requiring occupational licenses; creating criminal offenses.

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

SECTION 1.  Title 13, Occupations Code, is amended by adding Subtitle E to read as follows:

SUBTITLE E. CASINO GAMING AND SPORTS WAGERING REGULATED BY TEXAS GAMING COMMISSION

CHAPTER 2201. GENERAL PROVISIONS; TEXAS GAMING COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2201.001.  DEFINITIONS. In this subtitle:

(1)  "Active casino license" means a casino license that was issued by the commission and has not expired without being renewed, been revoked, or been permanently surrendered.

(2)  "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person. A person is considered to control a company if the person beneficially owns more than a five percent equity interest in the company under the beneficial ownership rules adopted by the commission.

(3)  "Applicant" means a person who has applied for a casino license, an operator license, an occupational license, a manufacturer license, a casino service license, or a qualification to hold an equity interest in a casino license holder.

(4)  "Associated equipment" means any equipment used in connection with casino gaming or sports wagering, including a mechanical, electromechanical, or electronic contrivance, component, or machine that would not otherwise be classified as a gaming device. The term includes dice, playing cards, links connecting progressive slot machines, equipment affecting the proper reporting of gross casino gaming revenue or gross sports wagering revenue, computerized systems of betting for sports wagering, computerized systems or software for monitoring slot machines, and devices for weighing or counting money.

(5)  "Casino" means facilities within a destination resort at which gambling games or sports wagering are conducted for profit, as authorized by Chapters 2202 and 2203.

(6)  "Casino gaming," "casino game," or "gambling game":

(A)  means any game or similar activity that involves the making of a bet, as defined by Section 47.01, Penal Code, for consideration;

(B)  includes the following games or devices played for consideration using money, property, checks, credit, or a representative of value--

(i)  a banking game, percentage game, or game of chance played with cards, dice, or a mechanical, electromechanical, electronic, or other device; and

(ii)  a game or device approved by the commission as a casino game; and

(C)  does not include--

(i)  placing, receiving, or otherwise knowingly transmitting a bet by a means that requires the use of the Internet, except for placing, receiving, or otherwise knowingly transmitting a bet using the Internet in connection with the play of games or devices that are offered by a casino license holder and that are played onsite at a casino;

(ii)  any mechanical, electromechanical, electronic, or other device designed, made, and adapted solely for bona fide amusement purposes if the device rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or $5, whichever is less;

(iii)  bingo authorized under Chapter 2001;

(iv)  charitable raffles authorized under Chapter 2002;

(v)  the state lottery conducted under Chapter 466, Government Code;

(vi)  sports wagering; or

(vii)  the making of a bet that:

(a)  occurs in a private place, as defined by Section 47.01, Penal Code;

(b)  in connection with, no person receives any economic benefit other than personal winnings; and

(c)  except for the advantage of skill or luck, involves risks of losing and chances of winning that are the same for all participants.

(7)  "Casino license" means a license to conduct casino gaming and sports wagering at a casino.

(8)  "Casino service" means the provision of goods or services, including security service and gaming schools, to a person holding a casino license or operator license under this subtitle, other than a service requiring a manufacturer license.

(9)  "Casino service license" means a license issued under Section 2202.152.

(10)  "Commission" means the Texas Gaming Commission.

(11)  "Company" means a corporation, partnership, limited partnership, trust, association, joint stock company, joint venture, limited liability company, or other form of business organization. The term does not include a sole proprietorship or natural person.

(12)  "Credit instrument" means a writing that evidences a casino gaming debt or sports wagering debt owed to a casino license holder at the time the debt is created, and includes any writing taken in consolidation, redemption, or payment of a previous credit instrument.

(13)  "Destination resort" means a mixed-use development consisting of casino gaming facilities and a combination of various tourism amenities and facilities, including hotels, restaurants, meeting facilities, attractions, entertainment facilities, and shopping centers.

(14)  "Director" means a member of the board of directors of a corporation and a person performing similar functions with respect to a company other than a corporation.

(15)  "Education" means public education, public higher education, and adult education related to responsible gaming.

(16)  "Equity interest" means a proprietary interest, right, or claim allowing the holder to vote with respect to matters of organizational governance or participate in the profits and residual assets of a company, including common and preferred stock in a corporation, a general or limited partnership interest in a partnership, a similar interest in any other form of business organization, and a warrant, right, or similar interest to subscribe for a proprietary right or claim or that is convertible into a proprietary right or claim, with or without the payment of additional consideration.

(17)  "Executive director" means the executive director of the commission.

(18)  "Gaming agreement" means an agreement authorized under Chapter 2202 or 2203 between this state and a federally recognized Indian tribe with Indian lands in this state under which this state allows the tribe to conduct limited casino gaming activities authorized under Chapter 2202 or 2203 or applicable federal law.

(19)  "Gaming-related business" means any business engaged in the service or support of casino gaming or sports wagering activities regulated under this subtitle or commission rule.

(20)  "Gaming device" means a mechanical, electromechanical, or electronic contrivance, component, or machine, including a slot machine, used in connection with casino gaming that affects the result of a bet by determining win or loss. The term includes a system for processing information that can alter the normal criteria of random selection, affect the operation of a game, or determine the outcome of a game.

(21)  "Gaming employee":

(A)  means an individual directly involved in the operation or conduct of casino gaming in a casino performing a service in a capacity that the commission finds appropriate for occupational licensing under Section 2202.102 and includes:

(i)  a boxman, a cashier, change personnel, counting room personnel, a dealer, a floor person, a host empowered to extend credit or complimentary services, a keno runner, a keno writer, a machine mechanic, or security personnel;

(ii)  a shift or pit boss or a supervisor or manager involved in casino gaming activities;

(iii)  accounting or internal auditing personnel directly involved in recordkeeping or the examination of records generated from casino gaming activities; and

(iv)  a junketeer or other independent agent whose compensation is based on the amount of money a patron wagers or loses or who is paid per patron more than the price of admission; and

(B)  does not include bartenders, cocktail waitresses, or other individuals engaged exclusively in preparing or serving food or beverages or individuals providing nominal or maintenance services.

(22)  "Gross casino gaming revenue":

(A)  means the total amount of the following, less the sum of all money paid as losses to patrons playing a gambling game, the amounts paid to purchase from independent financial institutions annuities to fund losses paid to patrons playing a gambling game, and the items made deductible as losses under Section 2202.253:

(i)  money received by a casino license holder from players playing a gambling game;

(ii)  money received by a casino license holder in payment for credit extended by the casino license holder to a patron for the purposes of casino gaming; and

(iii)  compensation received by a casino license holder for conducting any gambling game in which the license holder is not a party to a wager; and

(B)  does not include:

(i)  counterfeit money or tokens;

(ii)  coins of other countries that are received in slot machines or other gaming devices;

(iii)  cash taken in fraudulent acts perpetrated against a casino license holder for which the license holder is not reimbursed; or

(iv)  cash received as entry fees for contests or tournaments in which the patrons compete for prizes.

(23)  "Gross sports wagering revenue":

(A)  means the total amount of the following, less the sum of all money paid as losses to patrons engaged in sports wagering and the amounts paid to purchase from independent financial institutions annuities to fund losses paid to patrons engaged in sports wagering:

(i)  money received by a license holder from patrons engaged in sports wagering;

(ii)  money received by a license holder in payment for credit extended by the license holder to a patron for the purposes of sports wagering; and

(iii)  compensation received by a license holder for conducting any sports wagering in which the license holder is not a party to a wager; and

(B)  does not include:

(i)  counterfeit money or tokens;

(ii)  cash taken in fraudulent acts perpetrated against a license holder for which the license holder is not reimbursed; or

(iii)  cash received as entry fees for contests or tournaments in which the patrons compete for prizes.

(24)  "Hearing examiner" means a person authorized by the commission to conduct hearings.

(25)  "Indian lands" means land on which gaming is permitted under the Indian Gaming Regulatory Act (18 U.S.C. Sections 1166-1168 and 25 U.S.C. Section 2701 et seq.) or land that was held in trust by the United States on January 1, 1998, for the benefit of the Indian tribe pursuant to the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (Pub. L. No. 100-89).

(26)  "Institutional investor" means a person, other than a state or federal government pension plan, that meets the requirements of a qualified institutional buyer, as that term is defined by 17 C.F.R. Section 230.144A and is:

(A)  a bank as defined by Section 3(a)(6), Securities Exchange Act of 1934 (15 U.S.C. Section 78c);

(B)  an insurance company as defined by Section 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section 80a-2);

(C)  an investment company registered under Section 8, Investment Company Act of 1940 (15 U.S.C. Section 80a-8);

(D)  an investment adviser registered under Section 203, Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3);

(E)  a collective trust fund as defined by Section 3(c)(11), Investment Company Act of 1940 (15 U.S.C. Section 80a-3);

(F)  an employee benefit plan or pension fund that is subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), excluding an employee benefit plan or pension fund sponsored by a publicly traded corporation registered with the commission;

(G)  a state or federal government pension plan;

(H)  a group composed entirely of persons specified in Paragraphs (A)-(G); or

(I)  any other person the commission determines for reasons consistent with the policies expressed in Section 2202.001.

(27)  "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

(28)  "Key executive" means a corporation's directors and executive officers, a partnership's general partners, a trust's trustee, a joint venture's managing venturers, and each person possessing similar responsibilities and authorities in any other form of business organization.

(29)  "License holder" means a person who holds a license issued by the commission.

(30)  "Live sporting event" means:

(A)  a football, basketball, baseball, hockey, or similar game;

(B)  a boxing or martial arts match;

(C)  a horse race on which pari-mutuel wagering is authorized by law; or

(D)  any other event designated by the commission.

(31)  "Manufacturer license" means a license issued under Section 2202.151.

(32)  "Metropolitan statistical area" means a metropolitan statistical area designated by the United States Office of Management and Budget.

(33)  "Mixed-use development" means a developed area of land.

(34)  "Occupational license" means a license issued under Section 2202.102.

(35)  "Operator" means a person other than the casino license holder who contractually agrees to provide operational and managerial services on behalf of the casino license holder for the operation of any activities occurring at the casino in return for receiving a payment based wholly or partly on profits or receipts from the conduct of casino gaming or sports wagering.

(36)  "Operator license" means a license issued under Section 2202.101 to provide services as an operator.

(37)  "Pari-mutuel wagering" has the meaning assigned by Section 2021.003.

(38)  "Patron" or "Player" means a person who contributes any part of the consideration to play a gambling game or to engage in sports wagering. Consideration does not include a separate fee payable in order to wager.

(39)  "Principal manager" means a person who, as determined under the rules of the commission, holds or exercises managerial, supervisory, or policy-making authority over the management or operation of a casino gaming activity or casino service that in the judgment of the commission warrants the occupational licensing as a principal manager for the protection of the public interest. The term includes a key executive of a license holder that is a company.

(40)  "Public safety program" means a program for crime prevention and law enforcement, including a program designed to prevent and prosecute crimes involving human trafficking and money laundering.

(41)  "Racetrack" has the meaning assigned by Section 2021.003.

(42)  "Racetrack association" has the meaning assigned by Section 2021.003.

(43)  "Slot machine" means a casino game that involves a player using a mechanical, electromechanical, electronic, or other device that, on insertion of a coin, token, or similar object or on payment of consideration, is available to play or operate, the play or operation of which, wholly or partly by the element of chance, may entitle the player operating the machine to receive or deliver to the player a payment for winnings in the form of cash, premiums, merchandise, tokens, or any other thing of value.

(44)  "Sports wagering" means placing wagers on live sporting events as authorized by this subtitle.

(45)  "Table game" means any casino game played in a casino other than on a slot machine, including games such as roulette, keno, twenty-one, blackjack, craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, and pai gow.

Sec. 2201.002.  APPLICATION OF SUNSET ACT. (a) The Texas Gaming Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2033.

(b)  On the date the commission is abolished under Subsection (a), the following statutes are repealed:

(1)  this chapter;

(2)  Chapter 2202; and

(3)  Chapter 2203.

Sec. 2201.003.  REFERENCES TO LICENSE INCLUDE CERTIFICATE OF REGISTRATION, FINDING OF SUITABILITY, OR OTHER APPROVAL. A reference in this subtitle to a license applies to a certificate of registration, finding of suitability, or other affirmative regulatory approval provided under this subtitle or commission rule, unless otherwise expressly provided by this subtitle, another state or federal law, or commission rule.

Sec. 2201.004.  EXEMPTION FROM TAXATION. A political subdivision of this state may not impose:

(1)  a tax on the payment of a prize under Chapters 2202 or 2203;

(2)  a tax, fee, or other assessment on consideration paid to play a gambling game or engage in sports wagering authorized by this subtitle;

(3)  a tax on gross casino gaming revenue or gross sports wagering revenue; or

(4)  a tax or fee on attendance at or admission to a casino authorized by this subtitle unless specifically authorized by statute.

SUBCHAPTER B. TEXAS GAMING COMMISSION

Sec. 2201.051.  COMMISSION; MEMBERSHIP. (a) The Texas Gaming Commission is comprised of five qualified members appointed by the governor with the advice and consent of the senate.

(b)  Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin.

Sec. 2201.052.  QUALIFICATIONS OF COMMISSION MEMBERS. To be eligible for appointment to the commission, a person:

(1)  must be a citizen of the United States;

(2)  must submit a financial statement that contains the information required by Chapter 572, Government Code;

(3)  may not be pecuniarily interested in an entity engaged in the conduct of casino gaming or sports wagering or the provision of services that require a casino service license, including having any security issued by that entity, or be related within the second degree by affinity or the third degree by consanguinity, as determined under Chapter 573, Government Code, to an individual who has such a pecuniary interest or holds such a security;

(4)  may not be an applicant for or holder of a license under a law administered by the commission or hold an equity interest in a casino license holder requiring qualification under Section 2202.060;

(5)  may not be a member of the governing body of a political subdivision of this state;

(6)  may not hold an elective office or be an officer or official of a political party; and

(7)  must, before entering upon the duties of office, affirm that the person meets the qualification requirements stated in this section, including that the person is not pecuniarily interested in any business or entity holding a license for involvement in casino gaming or sports wagering or doing business with any such person or entity.

Sec. 2201.053.  MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b)  A person may not be a commission member or an employee of the commission employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1)  the person is an officer, employee, manager, or paid consultant of a Texas trade association in the field of gaming; or

(2)  the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of gaming.

(c)  A person may not be a commission member or act as general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Sec. 2201.054.  TERMS; VACANCIES. (a) Members of the commission serve staggered six-year terms, with the term or terms of one or two members expiring February 1 of each odd-numbered year.

(b)  The governor shall fill a vacancy in a position on the commission for the remainder of the unexpired term.

Sec. 2201.055.  PRESIDING OFFICER. The governor shall designate a commission member as presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Sec. 2201.056.  MEETINGS; OFFICIAL RECORD. (a) The commission shall meet not fewer than 12 times each year.

(b)  The commission may meet at other times at the call of the presiding officer or as provided by commission rule.

(c)  The commission shall keep an official record of all commission meetings and proceedings.

Sec. 2201.057.  GROUNDS FOR REMOVAL. (a) It is a ground for removal from the commission that a member:

(1)  does not have at the time of taking office the qualifications required by Section 2201.052;

(2)  does not maintain during service on the commission the qualifications required by Section 2201.052;

(3)  is ineligible for membership under Section 2201.053;

(4)  cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5)  is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the other commission members.

(b)  The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c)  If the executive director or any other commission member has knowledge that a potential ground for removal of a commission member exists, the executive director shall notify the presiding officer of the commission of the potential ground for removal. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the other commission members, the governor, and the attorney general that a potential ground for removal exists.

Sec. 2201.058.  TRAINING. (a) A person who is appointed to and qualifies for office as a commission member may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b)  The training program must provide the person with information regarding:

(1)  this subtitle and other laws related to casino gaming or gambling regulated by the commission;

(2)  the commission's programs, functions, rules, and budget;

(3)  the results of the most recent formal audit of the commission;

(4)  the requirements of laws relating to open meetings, public information, administrative procedure, and conflict of interest; and

(5)  any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c)  A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 2201.059.  QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The executive director or the executive director's designee shall provide to commission members, as often as necessary, information regarding their:

(1)  qualifications for office under this chapter; and

(2)  responsibilities under applicable laws relating to standards of conduct for state officers.

Sec. 2201.060.  BOND. (a) Before assuming the duties of office, a commission member must execute a bond in the amount of $25,000 payable to the state and conditioned on the member's faithful performance of the member's duties of office.

(b)  The bond must be approved by the governor.

(c)  The cost of the bond shall be paid by the commission.

Sec. 2201.061.  PROHIBITION OF CERTAIN ACTIVITIES. (a) A commission member may not:

(1)  use the member's official authority to affect the result of an election or nomination for public office; or

(2)  directly or indirectly coerce, attempt to coerce, command, or advise a person to pay, lend, or contribute anything of value to another person for political purposes.

(b)  A commission member or the parent, spouse, or child of a commission member may not solicit or accept employment or any financial interest or benefit from a license holder under a law administered by the commission or from an applicant for a license before the second anniversary of the date the commission member's service on the commission ends.

Sec. 2201.062.  APPLICATION OF FINANCIAL DISCLOSURE LAW. For purposes of Chapter 572, Government Code, a commission member and the executive director are appointed officers of a major state agency.

Sec. 2201.063.  PER DIEM; EXPENSES; SALARY. (a) A commission member is entitled to:

(1)  a per diem in an amount prescribed by appropriation for each day spent in performing the duties of the member;

(2)  reimbursement for actual and necessary expenses incurred in performing those duties; and

(3)  an annual salary in an amount prescribed by appropriation.

(b)  Reimbursement for expenses under this section is subject to any applicable limitation in the General Appropriations Act.

Sec. 2201.064.  EXECUTIVE DIRECTOR. (a) The commission shall appoint an executive director, who serves at the pleasure of the commission.

(b)  A person is not eligible for appointment as executive director if the person:

(1)  holds an elective office or is an officer or official of a political party; or

(2)  is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(c)  The executive director must have five or more years of responsible administrative experience in public or business administration or possess broad management skills.

(d)  The executive director may not pursue any other business or occupation or hold any other office for profit.

(e)  The executive director must meet all eligibility requirements relating to commission members.

(f)  The executive director is entitled to an annual salary and other compensation specified by the commission.

(g)  The executive director or the parent, spouse, or child of the executive director may not, before the second anniversary of the date the executive director's service to the commission ends, acquire a direct or indirect interest in or be employed by an entity licensed or registered by the commission in connection with the conduct of casino gaming or the provision of casino services in this state.

Sec. 2201.065.  OFFICES. The commission shall maintain its primary office in Travis County and may maintain other offices determined to be necessary by the commission.

Sec. 2201.066.  AUTHORITY TO SUE OR BE SUED; VENUE FOR CIVIL SUITS. (a) Subject to Section 2202.360, the commission may sue and be sued.

(b)  Service of process in a suit against the commission may be secured by serving the executive director.

(c)  A suit against the commission must be brought in Travis County.

Sec. 2201.067.  AUDIT. The transactions of the commission are subject to audit by the state auditor under Chapter 321, Government Code.

SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

Sec. 2201.101.  GENERAL POWERS AND DUTIES. (a) The commission has broad authority and shall exercise strict control and close supervision over all activities authorized and conducted in this state under a law administered by the commission.

(b)  The commission shall ensure that all gambling games, other casino gaming activities, sports wagering, and other gambling subject to the oversight or regulatory authority of the commission are conducted fairly and in compliance with the law.

(c)  The commission also has the powers and duties granted under Chapters 2202 and 2203.

(d)  All aspects of this subtitle and other laws administered by the commission, including those relating to licensing, qualification, execution, and enforcement, shall be administered by the executive director and the commission for the protection of the public and in the public interest.

(e)  The commission and the executive director have full power and authority to hold hearings and, in connection with the hearings, to issue subpoenas, to compel the attendance of witnesses at any place in this state, to administer oaths, and to require testimony under oath. Any process or notice relating to a hearing may be served in the manner provided for service of process and notices in civil actions. The commission and the executive director may pay transportation and other expenses of witnesses as they consider reasonable.

(f)  The executive director and the executive director's authorized employees may:

(1)  inspect and examine a premises where casino gaming, sports wagering, or other gambling regulated by the commission is conducted or equipment or supplies, including an electronic or other gaming device, or associated equipment is manufactured, assembled, produced, programmed, sold, leased, marketed, distributed, repaired, or modified for use in gaming;

(2)  for good cause, seize and remove from a premises and impound equipment or supplies for the purpose of examination and inspection; and

(3)  demand access to, inspect, examine, photocopy, or audit papers, books, and records of applicants and license holders, on their premises or elsewhere as practicable, in the presence of the applicant or license holder or the applicant's or license holder's agent, that report the gross income produced by a gaming-related business, verify the gross income, or affect other matters on the enforcement of this subtitle or other law administered by the commission.

(g)  For the purpose of conducting audits after the cessation of casino gaming or sports wagering by a license holder, a former license holder shall furnish, on demand of the executive director or the executive director's authorized employees, books, papers, and records as necessary to conduct the audits. The former license holder shall maintain all books, papers, and records necessary for audits for three years after the date of the surrender or revocation of the license and is responsible for the costs incurred by the commission in the conduct of an audit under this section. If the former license holder seeks judicial review of a deficiency determination or files a petition for a redetermination, the former license holder must maintain all books, papers, and records until a final order is entered on the determination.

(h)  The commission shall contract with at least one independent testing laboratory to scientifically test and technically evaluate gambling games, gaming devices, and associated equipment for compliance with this subtitle. The independent testing laboratory must have a national or international reputation of being demonstrably competent and must be qualified to scientifically test and evaluate all components of gambling games, gaming devices, and associated equipment for compliance with this subtitle and to perform the functions assigned to it under this subtitle. An independent testing laboratory may not be owned or controlled by a person licensed to conduct gambling games or sports wagering, or to manufacture gaming devices or associated equipment. The use of an independent testing laboratory for purposes related to the conduct of casino gaming or sports wagering under this subtitle must be made from a list of at least two laboratories approved by the commission.

Sec. 2201.102.  RULEMAKING AUTHORITY. (a) The commission shall adopt rules the commission considers necessary or desirable for the public interest in carrying out the policy and provisions of this subtitle and the other laws administered by the commission.

(b)  The rules must prescribe:

(1)  the method and form of application that an applicant for a license under this subtitle must follow and complete before consideration of an application by the commission;

(2)  the manner of any notice related to applying for a license pursuant to this subtitle;

(3)  the information to be furnished by an applicant or license holder under Chapter 2202 concerning antecedents, habits, character, associates, criminal history record information, business activities, and financial affairs;

(4)  the criteria to be used in the award, revocation, and suspension of licenses under Chapter 2202;

(5)  the information to be furnished by a license holder under Chapter 2202 relating to the holder's employees;

(6)  the manner and procedure of hearings conducted by the commission or a hearing examiner of the commission;

(7)  the payment of fees or costs an applicant or license holder under Chapter 2202 must pay;

(8)  the procedures for the issuance of temporary licenses and temporary qualification to hold equity interests in a casino license holder under Chapter 2202;

(9)  the manner and method of collection and payment of fees and the issuance of licenses;

(10)  the conditions under which the nonpayment of a gambling debt by a license holder constitutes grounds for disciplinary action;

(11)  the manner of approval of gambling games, gaming devices, and associated equipment;

(12)  access to confidential information obtained under this chapter, Chapter 2202, Chapter 2203, or other law and the means to ensure that the confidentiality of the information is maintained and protected;

(13)  financial reporting and internal control requirements for license holders;

(14)  the manner in which money awarded to players, compensation from gambling games and sports wagering, and gross casino gaming revenue and gross sports wagering revenue must be computed and reported under Chapter 2202;

(15)  requirements for the annual audit of the financial statements of a license holder;

(16)  requirements for periodic financial reports from each license holder consistent with standards and intervals prescribed by the commission;

(17)  the procedures to be followed by a license holder for excluding a person from a casino;

(18)  the procedures and criteria for requiring a finding of suitability under Section 2202.006; and

(19)  the procedures and criteria for exempting a group or class of persons from the registration or qualification requirements of Chapter 2202.

Sec. 2201.103.  AUTHORITY OF EXECUTIVE DIRECTOR. (a) With commission approval, the executive director may create executive positions as the director considers necessary to implement this chapter, Chapter 2202, Chapter 2203, and any other law administered by the commission.

(b)  The executive director shall employ directors in the areas of audit, investigation, and enforcement. The audit director must be a certified public accountant, have five or more years of progressively responsible experience in general accounting, and have a comprehensive knowledge of the principles and practices of corporate finance or must possess qualifications of an expert in the field of corporate finance and auditing, general finance, gaming, and economics. Other directors must possess five or more years of training and experience in the fields of investigation, law enforcement, law, or gaming.

(c)  The executive director may investigate, for the purpose of prosecution, a suspected criminal violation of this subtitle or other laws related to casino gaming, sports wagering, or gambling regulated by the commission. For the purpose of the administration and enforcement of this subtitle or another related law, the executive director and employees designated as enforcement officers by the executive director may be commissioned as peace officers.

(d)  The executive director, to further the objectives and purposes of this subtitle or other laws related to casino gaming, sports wagering, or gambling regulated by the commission, may:

(1)  direct and supervise all administrative actions of the commission;

(2)  bring legal action in the name and on behalf of the commission;

(3)  make, execute, and effect an agreement or contract authorized by the commission;

(4)  employ the services of persons considered necessary for consultation or investigation and set the salaries of or contract for the services of legal, professional, technical, and operational personnel and consultants, except that outside legal assistance may be retained only with the approval of the commission;

(5)  acquire furnishings, equipment, supplies, stationery, books, and all other things the executive director considers necessary or desirable in carrying out the executive director's functions; and

(6)  perform other duties the executive director may consider necessary to effect the purposes of this subtitle or other laws related to casino gaming, sports wagering, or gambling regulated by the commission.

(e)  Except as otherwise provided in this subtitle, the costs of administration incurred by the executive director shall be paid in the same manner as other claims against the state are paid.

Sec. 2201.104.  OFFICE OF HEARING EXAMINERS. (a) The commission shall create an office of hearing examiners to assist the commission in carrying out its powers and duties.

(b)  The office of hearing examiners shall:

(1)  hold hearings under the authority of the commission on matters relating to the commission's administration of this subtitle and other laws related to casino gaming, sports wagering, or gambling regulated by the commission as the commission orders; and

(2)  report after a hearing in the manner prescribed by the commission.

(c)  The commission shall refer any contested case arising under this subtitle or other laws related to casino gaming, sports wagering, or gambling regulated by the commission to the office of hearing examiners or the State Office of Administrative Hearings.

(d)  The office of hearing examiners is independent of the executive director and is under the exclusive control of the commission.

(e)  The office of hearing examiners is under the direction of a chief hearing examiner appointed by the commission.

(f)  The commission may authorize the chief hearing examiner to delegate to one or more hearing examiners the authority to hold any hearing called by the chief hearing examiner.

(g)  The chief hearing examiner and each assistant hearing examiner employed by the office of hearing examiners must be an attorney licensed to practice law in this state.

(h)  The chief hearing examiner and each assistant hearing examiner may administer oaths, receive evidence, and issue subpoenas to compel the attendance of witnesses and the production of papers and documents in all matters delegated to the office of hearing examiners by the commission.

(i)  The chief hearing examiner and each assistant hearing examiner is entitled to an annual salary and other compensation specified by the commission.

(j)  The office of hearing examiners may contract for additional services it considers necessary to carry out its powers.

Sec. 2201.105.  JUDICIAL REVIEW IN CONTESTED CASES. A final ruling of the commission in a contested case is subject to judicial review under Chapter 2001, Government Code. Judicial review is under the substantial evidence rule, as provided by that chapter.

Sec. 2201.106.  RECORDS; CONFIDENTIAL INFORMATION. (a) The executive director shall maintain a file of all applications for licenses under this subtitle, together with a record of all action taken with respect to the applications.

(b)  The commission and the executive director may maintain other records they consider desirable.

(c)  The information made confidential by this section may be disclosed, wholly or partly, only:

(1)  in the course of the necessary administration of this subtitle or in the enforcement of other laws related to casino gaming, sports wagering, or other gambling regulated by the commission;

(2)  under Section 2202.353;

(3)  on the order of a court; or

(4)  as authorized under commission rule, to an authorized agent of any agency of the United States, another state, or a political subdivision of this state.

(d)  Notice of the content of any information furnished or released under Subsection (c) may be given to any affected applicant or license holder as prescribed by commission rule.

(e)  The following information is confidential and may not be disclosed:

(1)  information requested by the commission or the executive director under this subtitle or another applicable law that may otherwise be obtained relating to the finances, earnings, or revenue of an applicant or license holder;

(2)  information pertaining to an applicant's criminal history record information, antecedents, and background that has been furnished to or obtained by the commission or the executive director from any source;

(3)  information provided to the commission or the executive director or a commission employee by a governmental agency or an informer or on the assurance that the information will be held in confidence and treated as confidential;

(4)  information obtained by the executive director or the commission from a license holder, including a casino service license holder, relating to the manufacturing, modification, or repair of gaming devices;

(5)  security plans and procedures of the commission designed to ensure the integrity and security of the regulation and operation of casino gaming, sports wagering, or other gambling regulated by the commission;

(6)  the street address and telephone number of a patron unless the patron has consented to the release of the information;

(7)  information relating to all system operations of gambling games and sports wagering, including security related to gambling games or sports wagering, and commission plans and procedures intended to ensure the integrity and security of the operation of gambling games, sports wagering, and other gambling regulated by the commission; and

(8)  reports and related information filed under Section 2202.010.

Sec. 2201.107.  REPRESENTATION BY ATTORNEY GENERAL. (a) The attorney general shall represent the commission and the executive director in any proceeding to which the commission or the executive director is a party under this subtitle or another law administered by the commission or in any suit filed against the commission or executive director.

(b)  The office of the attorney general on request shall advise the commission and the executive director in all other matters, including representing the commission when the commission acts in its official capacity.

Sec. 2201.108.  RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The commission may not adopt rules restricting advertising or competitive bidding by a person regulated by the commission except to prohibit false, misleading, or deceptive practices by that person.

(b)  The commission may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the commission a rule that:

(1)  restricts the use of any advertising medium;

(2)  restricts the person's personal appearance or the use of the person's voice in an advertisement;

(3)  relates to the size or duration of an advertisement by the person; or

(4)  restricts the use of a trade name in advertising by the person.

Sec. 2201.109.  RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. (a) The commission shall adopt rules necessary to comply with Chapter 53.

(b)  In adopting rules under this section, the commission shall list the specific offenses for which a conviction would constitute grounds for the commission to take action under Section 53.021.

Sec. 2201.110.  SUBPOENA. (a) The commission may request and, if necessary, compel by subpoena:

(1)  the attendance of a witness for examination under oath; and

(2)  the production for inspection and copying of records and other evidence relevant to the investigation of an alleged violation of this subtitle or other laws related to casino gaming, sports wagering, or other gambling regulated by the commission.

(b)  If a person fails to comply with a subpoena issued under this section, the commission, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the commission may be held.

(c)  The court shall order a person to comply with the subpoena if the court determines that good cause exists for issuing the subpoena.

Sec. 2201.111.  DIVISION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

Sec. 2201.112.  USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission through the commission's Internet website.

Sec. 2201.113.  NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of:

(1)  negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of commission rules; and

(2)  appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b)  The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c)  The commission shall designate an appropriately qualified person to:

(1)  coordinate the implementation of the policy adopted under Subsection (a);

(2)  serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3)  collect data concerning the effectiveness of those procedures, as implemented by the commission.

Sec. 2201.114.  COMMITTEES. The commission may appoint committees that it considers necessary to carry out its duties.

Sec. 2201.115.  CONTRACT AUTHORITY. (a) The commission and executive director have broad authority and shall exercise strict control and close supervision over gambling games and sports wagering conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of casino gaming and sports wagering under this subtitle.

(b)  The executive director may contract with a third party to perform a function, activity, or service in connection with the operation of casino gaming or sports wagering under this subtitle, other than investigative services, as prescribed by the executive director. A contract relating to the operation of casino gaming or sports wagering must be consistent with this subtitle.

(c)  The executive director may award a contract for supplies, equipment, or services, including a contract under Subsection (b), pending the completion of any investigation and license required by this subtitle. A contract awarded under this subsection must include a provision permitting the executive director to terminate the contract without penalty if the investigation reveals that the person to whom the contract is awarded does not satisfy the applicable requirements for a license under this subtitle.

(d)  In the acquisition or provision of facilities, supplies, equipment, materials, or services related to the implementation of casino gaming or sports wagering under this subtitle, the commission must comply with procurement procedures prescribed under Subtitle D, Title 10, Government Code.

Sec. 2201.116.  INVESTIGATIONS AND ENFORCEMENT. (a) A violation or alleged violation of this subtitle or of the penal laws of this state by the commission, its employees, or a person regulated under this subtitle may be investigated by the attorney general, the district attorney for Travis County, or a district attorney, criminal district attorney, or county attorney for the county in which violation or alleged violation occurred.

(b)  The commission may investigate violations of this subtitle, rules adopted under this subtitle, or other laws related to casino gaming, sports wagering, or other gambling regulated by the commission and may file a complaint requesting that an investigation be conducted in accordance with Subsection (a).

Sec. 2201.117.  SECURITY. (a) The executive director shall maintain a department of security in the commission. The executive director shall appoint a deputy to administer the department. The deputy must be qualified by training and experience in law enforcement or security to supervise, direct, and administer the activities of the department.

(b)  The executive director may employ security officers or investigators as the executive director considers necessary and may commission investigators or security officers as peace officers. The deputy and all investigators employed by the department of security and commissioned as peace officers must meet the requirements under Chapter 1701 for employment and commission as peace officers.

(c)  A security officer or investigator employed by the department of security and commissioned as a peace officer, or a peace officer who is working in conjunction with the commission or the Department of Public Safety in the enforcement of this subtitle may:

(1)  without a search warrant, search and seize a gaming device or associated equipment that is located on premises for which a person holds a license issued under this subtitle; or

(2)  seize a gaming device or associated equipment that is being used or is in the possession of any person in violation of this subtitle or other laws related to casino gaming, sports wagering, or other gambling regulated by the commission.

(d)  The Department of Public Safety or any other state or local law enforcement agency, at the commission's request and in accordance with an interagency agreement, shall perform a full criminal history record information and background investigation of a prospective deputy or investigator of the department of security of the commission. The commission shall reimburse the agency for the actual costs of an investigation.

(e)  At least once every two years, the executive director shall employ an independent firm that is experienced in security, including computer security and systems security, to conduct a comprehensive study of all aspects of casino gaming and sports wagering security.

Sec. 2201.118.  PROHIBITED GAMBLING GAMES. (a) Except as provided by this subtitle or other law, the executive director or any other person may not establish or operate a gambling game in which the winner is chosen on the basis of the outcome of a live sporting event.

(b)  Except as provided by this subtitle, the operation of any game using a slot machine or other gaming device is prohibited.

Sec. 2201.119.  DEPARTMENT OF PUBLIC SAFETY RECORDS. (a) Except as otherwise provided by this subtitle, all files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters collected, retained, or compiled by the Department of Public Safety in the discharge of its duties under this subtitle are confidential and are not subject to public disclosure.

(b)  An investigation report or other document submitted by the Department of Public Safety to the commission becomes part of the investigative files of the commission.

(c)  Information that is made available to the public is not privileged or confidential under this section and is subject to public disclosure.

Sec. 2201.120.  CRIMINAL BACKGROUND INVESTIGATION FOR CASINO GAMING OR SPORTS WAGERING. (a) The commission is entitled to conduct an investigation of and is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency to assist in the criminal background investigation of any person directly involved with casino gaming, sports wagering, or other gambling regulated under this subtitle.

(b)  Except as otherwise provided by this subtitle, a criminal background investigation is governed by commission rules adopted under this chapter.

(c)  The Department of Public Safety or a state or local law enforcement agency in this state, in accordance with an interagency agreement with the commission, shall provide any assistance requested by the commission in the administration and enforcement of this subtitle, including conducting criminal background investigations of a person seeking a license required under this subtitle or of any person required to be named in an application for a license under this subtitle.

(d)  This section does not limit the commission's right to obtain criminal history record information from any other local, state, or federal agency. The commission may enter into a confidentiality agreement with the agency as necessary and proper.

(e)  Except as otherwise provided by this subtitle or other law, criminal history record information obtained by the commission under this section may be disclosed only:

(1)  to another law enforcement agency to assist in or further an investigation related to the commission's operation and oversight of gaming; or

(2)  under a court order.

Sec. 2201.121.  PLAYER AGREEMENT TO ABIDE BY RULES AND INSTRUCTIONS. By participating as a player, a player agrees to abide by and be bound by the commission's and the license holder's rules and instructions, including the rules or instructions applicable to the particular gambling game or sports wagering involved. The player also agrees that the determination of whether the player is a valid winner is subject to:

(1)  the commission's and the license holder's rules, instructions, and claims procedures, including those developed for the particular gambling game or sports wagering involved;

(2)  any validation tests established by the commission for the particular gambling game or sports wagering involved; and

(3)  the limitations and other provisions prescribed by this subtitle.

Sec. 2201.122.  VENUE FOR CRIMINAL PROCEEDING. Venue is proper in Travis County or any county in which venue is proper under Chapter 13, Code of Criminal Procedure, for:

(1)  an offense under this subtitle;

(2)  an offense under the Penal Code, if the accused:

(A)  is regulated under this subtitle; and

(B)  is alleged to have committed the offense while engaged in casino gaming or sports wagering activities; or

(3)  an offense under Title 7 or 11, Penal Code, that involves property consisting of or including a gaming device or gambling game prize.

SUBCHAPTER D. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

Sec. 2201.151.  PUBLIC INTEREST INFORMATION. (a) The commission shall prepare and disseminate consumer information that describes the regulatory functions of the commission and the procedures by which consumer complaints are filed with and resolved by the commission.

(b)  The commission shall make the information available to the public and appropriate state agencies.

Sec. 2201.152.  COMPLAINTS. (a) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, telephone number, and other contact information of the commission for the purpose of directing complaints to the commission. The commission may provide for that notice:

(1)  on each form, application, or written contract for services of a person regulated under a law administered by the commission;

(2)  on a sign prominently displayed in the place of business of each person regulated under a law administered by the commission; or

(3)  in a bill for service provided by a person regulated under this subtitle.

(b)  The commission shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a person regulated under this subtitle.

Sec. 2201.153.  RECORDS OF COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain:

(1)  information about the parties to the complaint and the subject matter of the complaint;

(2)  a summary of the results of the review or investigation of the complaint; and

(3)  information about the disposition of the complaint.

(b)  The commission shall make information available describing its procedures for complaint investigation and resolution.

(c)  The commission shall periodically notify the parties of the status of the complaint until final disposition of the complaint.

Sec. 2201.154.  GENERAL RULES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION. The commission shall adopt rules concerning the investigation of a complaint filed with the commission. The rules must:

(1)  distinguish between categories of complaints;

(2)  ensure that complaints are not dismissed without appropriate consideration;

(3)  require that the commission be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4)  ensure that the person who files a complaint has an opportunity to explain the allegations made in the complaint; and

(5)  prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the commission to obtain the services of a private investigator.

Sec. 2201.155.  DISPOSITION OF COMPLAINT. (a) The commission shall:

(1)  dispose of each complaint in a timely manner; and

(2)  establish a schedule for conducting each phase of a complaint that is under the control of the commission not later than the 30th day after the date the commission receives the complaint.

(b)  Each party shall be notified of the projected time requirements for pursuing the complaint. The commission shall notify each party to the complaint of any change in the schedule established under Subsection (a)(2) not later than the seventh day after the date the change is made.

(c)  The executive director shall notify the commission of a complaint that is not resolved within the time prescribed by the commission for resolving the complaint.

Sec. 2201.156.  PUBLIC PARTICIPATION. (a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the commission's jurisdiction.

(b)  The commission shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the commission's programs.

Sec. 2201.157.  INFORMAL SETTLEMENT CONFERENCE. The commission by rule shall establish procedures for an informal settlement conference related to a complaint filed with the commission.

CHAPTER 2202. CASINO GAMING; SPORTS WAGERING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2202.001.  PUBLIC POLICY. (a) All casino gaming and sports wagering that is conducted in this state and that is authorized by law shall be regulated and licensed under this chapter, unless federal law or another state law specifically provides otherwise.

(b)  The legislature hereby finds, and declares it to be the public policy of this state, that:

(1)  the development of regulated casino gaming at a limited number of destination resorts in the state will benefit the general welfare of the people of this state by enhancing investment, economic development, and tourism in this state, resulting in thousands of new jobs and significant new revenue to the state for essential services;

(2)  the conduct of regulated casino gaming by adults of legal age in a limited number of destination resorts will not harm the welfare of this state;

(3)  the regulation of casino gaming and sports wagering in this state is important to ensure that casino gaming and sports wagering is:

(A)  conducted honestly and competitively; and

(B)  free from criminal and corruptive elements;

(4)  public confidence and trust can be maintained only by strict regulation of all persons, locations, practices, associations, and activities related to the conduct of casino gaming, the casino service industry, and sports wagering;

(5)  persons owning any direct or indirect material interest in a casino should be licensed and controlled to protect the public health, safety, morals, good order, and general welfare of the people of this state;

(6)  certain operators and employees of casinos should be regulated, licensed, and controlled to accomplish and promote these public policies while protecting the public health, safety, morals, good order, and general welfare of the people of this state;

(7)  certain persons engaging in the casino service industry should be regulated, licensed, and controlled to accomplish and promote these public policies while protecting the public health, safety, morals, good order, and general welfare of the people of this state; and

(8)  it is the intent of the legislature that the resources, goods, labor, and services of the people of this state be used, where possible, in the operation and construction of destination resorts, casinos, and related amenities to the extent allowable by law.

Sec. 2202.002.  EXEMPTION FROM FEDERAL STATUTE. (a) This chapter provides an exemption to the application of 15 U.S.C. Section 1172, in accordance with that section.

(b)  All shipments of gaming devices into this state, including slot machines, conducted in compliance with the applicable provisions of 15 U.S.C. Sections 1173 and 1174 are legal shipments of the devices into this state.

Sec. 2202.003.  CONSTRUCTION; APPLICABILITY OF OTHER LAWS. (a) Nothing in this chapter may be construed to implicitly repeal or modify existing state laws with respect to gambling, except that casino gaming and sports wagering is not prohibited by another law if conducted as authorized under this chapter.

(b)  To the extent of any conflict between Chapter 2003, Government Code, and this chapter or a commission rule governing casino gaming or sports wagering, this chapter or the commission rule prevails in all matters related to casino gaming or sports wagering, including in connection with hearings before the State Office of Administrative Hearings.

(c)  This chapter prevails to the extent of any conflict between this chapter and a provision of Subtitle A-1, Title 13 (Texas Racing Act).

Sec. 2202.004.  AUTHORITY TO IMPLEMENT CASINO GAMING AND SPORTS WAGERING. (a) The commission may implement casino gaming and sports wagering in accordance with this subtitle.

(b)  The commission shall allow the operation of limited casino gaming pursuant to this subtitle at locations on Indian lands in accordance with an effective gaming agreement and in compliance with applicable federal law.

Sec. 2202.005.  IMMUNITY FOR STATEMENT MADE IN PROCEEDING OR INVESTIGATION. Any member or agent of the commission or any witness testifying under oath has absolute privilege for any written or oral statement made in the course of, and relevant to the purpose of, an official commission proceeding or investigative activities related to commission licensing under this chapter. Such written or oral statement does not impose liability for defamation or constitute a ground for recovery in any civil action.

Sec. 2202.006.  FINDING OF SUITABILITY. To promote the integrity and security of casino gaming and sports wagering under this subtitle, the commission in its discretion may require a finding of suitability for any person conducting business with or in relation to the operation of casino gaming or sports wagering who is not otherwise required to obtain a license from the commission for the person's operations.

Sec. 2202.007.  CONSENT TO COMMISSION DETERMINATION. (a) An application for a license under this chapter constitutes a request to the commission for a decision on the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with casino gaming or sports wagering under this chapter in the manner or position sought.

(b)  By filing an application with the commission, the applicant specifically consents to the commission's determination if the application, after filing, becomes moot for any reason other than death.

Sec. 2202.008.  LICENSING AS REVOCABLE PERSONAL PRIVILEGES. (a) An applicant for a license under this chapter does not have any right to the license sought.

(b)  Any license issued under this chapter is a revocable privilege, and not a right or property under the United States Constitution or the Texas Constitution. An applicant or license holder does not acquire any vested right in or under the privilege.

(c)  The courts of this state have jurisdiction to review a decision to deny, limit, or condition a casino license pursuant to Section 2202.357 or if judicial review is sought on the ground that the denial, limitation, or condition violates the Texas Constitution or is based on a suspect classification, such as race, color, religion, sex, or national origin, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The state court must affirm the commission's action unless the violation is proven by clear and convincing evidence.

(d)  A license issued or renewed under this chapter may not be transferred or assigned to another person unless approved in advance by the commission, and a license may not be pledged as collateral. The purchaser or successor of a license holder must independently qualify for a license required by this chapter.

(e)  The following acts are void unless approved by the commission in advance or within 60 days of the occurrence of the act:

(1)  the transfer, sale, or other disposition of an interest in the license holder that results in a change in the identity of an equity interest holder requiring qualification under Section 2202.060; or

(2)  the sale of the assets of the license holder, other than assets bought and sold in the ordinary course of business, or any interest in the assets, to any person not already determined to have met the applicable qualifications of this chapter.

Sec. 2202.009.  PRIZE RULES, PAYMENT, AND REDEMPTION. (a) The payment of prizes is the sole and exclusive responsibility of the casino license holder or operator license holder. A prize may not be paid by the commission or this state except as otherwise authorized.

(b)  Nothing in this chapter limits the ability of a casino license holder or an operator license holder to provide promotional prizes, including wide area progressive networks, in addition to prize payouts regulated by the commission.

(c)  The commission shall enact rules consistent with this section governing the use and redemption of prizes and credits recorded on player account records, such as players' club cards and smart cards.

Sec. 2202.010.  REPORT ON LITIGATION. (a) A casino license holder or an operator license holder shall report to the commission any litigation relating to casino or sports wagering operations, including a criminal proceeding, a proceeding involving an issue related to pari-mutuel activities that impact casino gaming or sports wagering operations, or a matter related to character or reputation relevant to a person's suitability under this chapter.

(b)  The report required under Subsection (a) must be filed not later than the 30th day after the date the license holder acquires knowledge of the litigation.

Sec. 2202.011.  COMMISSION APPROVAL REQUIRED FOR PROCEDURES AND ADMINISTRATIVE AND ACCOUNTING CONTROLS. (a) The commission's or executive director's approval is required for all internal procedures and administrative and accounting controls of a casino license holder or an operator license holder.

(b)  The commission by rule shall establish general accounting and auditing requirements and internal control standards for the conduct of casino gaming at casinos.

Sec. 2202.012.  GAMING EMPLOYEE REPORTING. (a) In this section, "employee" includes any person connected directly with or compensated by an applicant or license holder as an agent, personal representative, consultant, or independent contractor.

(b)  On or before the 15th day of each month, a casino owner or casino operator license holder shall submit to the commission a gaming employee report for the casino operated by the owner or operator. For each gaming employee, the report must provide the employee's name, job title, date of birth, and social security number.

(c)  The gaming employee report is confidential and may not be disclosed except under commission order or in accordance with this subtitle.

(d)  The commission may conduct criminal history background investigations of gaming employees.

(e)  The commission may prohibit an employee from performing any act relating to gaming if the commission finds that an employee has:

(1)  committed, attempted, or conspired to commit any act prohibited by this chapter;

(2)  concealed or refused to disclose any material fact in any commission investigation;

(3)  committed, attempted, or conspired to commit an offense involving or related to larceny or embezzlement;

(4)  been convicted in any jurisdiction of an offense involving or relating to gambling;

(5)  accepted and continued in employment in a position for which commission approval is required after commission approval was denied for a reason involving personal unsuitability or after failing to apply for approval on commission request;

(6)  been prohibited under color of governmental authority from being present on the premises of any casino or any establishment where casino gaming or pari-mutuel wagering is conducted for any reason relating to improper gambling activity or other illegal acts;

(7)  wilfully defied any legislative investigative committee or other officially constituted body acting on behalf of the United States or any state, county, or municipality that sought to investigate alleged or potential crimes relating to gambling, corruption of public officials, or any organized criminal activities; or

(8)  been convicted of any felony or any crime involving moral turpitude.

(f)  The commission may prohibit an employee from performing any act relating to casino gaming based on a revocation or suspension of any casino gaming or pari-mutuel wagering license or for any other reason the commission finds appropriate, including a refusal by a regulatory authority to issue a license for the employee to engage in or be involved with casino gaming or with other regulated gaming or pari-mutuel wagering in any jurisdiction.

Sec. 2202.013.  REPORT OF VIOLATIONS. A person who holds a license under this chapter shall immediately report a violation or suspected violation of this chapter or a rule adopted under this chapter by any license holder, by an employee of a license holder, or by any person on the premises of a casino, whether or not associated with the license holder.

Sec. 2202.014.  INDEMNIFICATION, INSURANCE, AND BONDING REQUIREMENTS. (a) A license holder shall indemnify and hold harmless this state, the commission, and all officers and employees of this state and the commission from any and all claims which may be asserted against a license holder, the commission, this state, and the members, officers, employees, and authorized agents of this state or the commission arising from the license holder's participation in casino gaming authorized under this subtitle.

(b)  Surety and insurance required under this chapter may only be issued by companies or financial institutions financially rated "A-" or better as rated by AM Best Company or another rating organization designated by the commission and duly licensed, admitted, and authorized to conduct business in this state, or by other surety approved by the commission.

(c)  The commission shall be named as the obligee in each required surety and as an additional insured in each required insurance contract.

(d)  A casino license holder or an operator license holder may not be self-insured with regard to gaming operations under this section in excess of $50,000,000 per occurrence.

(e)  The commission by rule shall establish minimum insurance coverage requirements for license holders under this chapter, including:

(1)  crime or fidelity insurance against losses caused by fraudulent or dishonest acts by an officer or employee of the license holder;

(2)  commercial general liability insurance;

(3)  property insurance;

(4)  business auto liability insurance.

Sec. 2202.015.  LIABILITY FOR CREDIT AWARDED OR DENIED; PLAYER DISPUTE. This state and the commission are not liable for any gaming device malfunction or error occurring at a casino that causes credit to be wrongfully awarded or denied to players.

SUBCHAPTER B. CASINO LICENSE

Sec. 2202.051.  CASINO LICENSE; LIMITED NUMBER; CASINO LOCATIONS. (a) Casino gaming and sports wagering may be lawfully conducted in a casino operating under a casino license. The commission shall issue casino licenses as required and limited by the Texas Constitution.

(b)  A person may not own an equity interest in a casino at which casino gaming, sports wagering, or other gambling is conducted in this state unless the casino is operating under a casino license issued for the conduct of gambling at that casino.

(c)  A separate casino license must be obtained for each casino conducting casino gaming, sports wagering, or other gambling regulated by the commission. The commission shall not issue a casino license if such issuance would cause the number of active casino licenses to exceed any limit established by the Texas Constitution or this subtitle.

(d)  The commission shall not issue a casino license for a casino located outside of an area where a casino may be located pursuant to the Texas Constitution and this subtitle.

(e)  The commission may issue a temporary license for one year or less to authorize the casino license holder to temporarily conduct casino gaming and sports wagering in accordance with commission rules at a location within 20 miles of the site for which the casino license was issued.

(f)  For purposes of determining the location of a casino, a casino is considered to be located in the county in which the main public entrance to the casino is located.

Sec. 2202.052.  APPLICATION. (a) A person seeking a casino license shall submit an application in accordance with commission rules containing information the commission finds necessary to determine:

(1)  the suitability and eligibility of the applicant;

(2)  the eligibility of the proposed location; and

(3)  the economic impact of the overall destination resort or casino project.

(b)  In addition to any other information the commission may require, an application must include the following information concerning the feasibility of the overall destination resort:

(1)  proof that casino gaming was approved by the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, authorizing and regulating casino gaming at destination resorts;

(2)  evidence that the applicant possesses, or has the right to acquire, sufficient real property on which the proposed destination resort will be located that accommodates the applicant's construction and operation of the destination resort substantially as proposed;

(3)  evidence that the applicant will meet, and a specific schedule for meeting, all requirements established by the Texas Constitution to conduct casino gaming, including satisfaction of any minimum new investment commitment;

(4)  evidence that the applicant is of good character, honesty, and integrity;

(5)  evidence that issuance of the casino license will not be detrimental to the public interest or the casino gaming industry;

(6)  a detailed estimate of the total new investment to be made by the applicant for the destination resort and evidence of the applicant's financial capacity to operate and complete development of the destination resort;

(7)  evidence that the applicant possesses, or reasonably expects to obtain, all state, county, and municipal permits and approvals necessary for the construction and operation of the proposed destination resort within the time prescribed in this chapter; and

(8)  evidence that the applicant is prepared to begin construction of its proposed destination resort within 24 months of receiving a casino license and to proceed with the construction of the destination resort or casino without unnecessary delay.

(c)  An applicant may apply for not more than two casino licenses but must submit a separate application for each destination resort for which a casino license is sought.

Sec. 2202.053.  CASINO LICENSE ISSUED TO INDIAN TRIBE; AGREEMENT. (a) In addition to the casino licenses issued under this subchapter, the commission may issue a casino license to a federally recognized Indian tribe that had Indian lands in this state held in trust by the United States on January 1, 1998. A license issued under this subsection authorizes the tribe to operate not more than one casino on Indian lands held in trust by the United States on January 1, 1998.

(b)  A casino license issued by the commission under Subsection (a) to an Indian tribe constitutes an agreement between this state and the tribe for purposes of the Indian Gaming Regulatory Act (18 U.S.C. Sections 1166-1168 and 25 U.S.C. Section 2701 et seq.).

(c)  An Indian tribe to which Subsection (a) applies may, in lieu of a casino license, operate a casino on Indian lands described by Subsection (a) under an agreement with this state. The agreement is governed by this chapter and Chapter 2203.

(d)  A casino license may not be issued for a location in an area in which casino gaming is prohibited under a gaming agreement between an Indian tribe and this state.

Sec. 2202.054.  MANDATORY REQUIREMENTS. (a) A company is eligible to apply for and hold a casino license only if:

(1)  the company is incorporated or organized and in good standing in this state or organized under the laws of another state of the United States and qualified to conduct business in this state; and

(2)  the company complies with all laws of this state.

(b)  To be eligible to receive a casino license, an applicant must submit an application to the commission by the date established by the commission.

(c)  An application may not be considered filed for purposes of this chapter if the application does not include the information prescribed by Section 2202.052(b) or is not accompanied by the required application fee.

Sec. 2202.055.  CASINO LICENSE INITIAL AND CONTINUING SUITABILITY CONSIDERATIONS. (a) The commission shall determine the initial and continuing suitability of each applicant for or holder of a casino license based on suitability criteria the commission prescribes by rule to ensure that all casino license holders are of good character, honesty, integrity, and financial stability, that a casino license holder has sufficient business probity and competence, and that a casino license holder meets other applicable qualifications for the issuance of the license.

(b)  The commission shall give due consideration to the protection of the public health, safety, morals, and general welfare of the people of this state and for the reputation of the state's casino gaming industry.

(c)  In considering the initial and continuing suitability of an applicant for or holder of a casino license, the commission shall consider:

(1)  whether the applicant or casino license holder is a "qualified applicant" as defined by Section 47-a, Texas Constitution;

(2)  the applicant's or casino license holder's experience in conducting licensed casino gaming operations and the applicant's financial ability to promptly construct and adequately maintain the proposed casino project; and

(3)  the applicant's or casino license holder's progress towards satisfaction of any minimum new investment commitment established in the Texas Constitution and the schedule specified in the application.

(d)  In determining whether an applicant meets any minimum investment commitment established in the Texas Constitution, the commission may not consider the expenditure of any public money or facilities developed or built with public assistance or tax incentives of any kind.

(e)  The burden of proving suitability to receive or hold a casino license is on the applicant or license holder.

(f)  In considering the initial and continuing suitability of an applicant for or holder of a casino license, the commission may consider the suitability of:

(1)  each person holding an equity interest in the applicant or license holder requiring qualification under Section 2202.060;

(2)  each person holding, or proposed to receive, an operator license, occupational license, or manufacturer license employed by or conducting business with the applicant or license holder; and

(3)  each affiliate of the applicant or license holder.

(g)  An applicant for or holder of a casino license may not receive or hold a casino license if the person or an officer or director:

(1)  has been convicted of a felony in the past 20 years under the laws of this state, any other state, or the United States;

(2)  has ever knowingly or intentionally submitted an application for a license under this chapter that contained false information;

(3)  served as a principal manager for an applicant or license holder described by Subdivision (1) or (2);

(4)  retains or employs another person described by Subdivision (2);

(5)  holds a manufacturer license or casino service license;

(6)  is a commission member; or

(7)  is a member of the judiciary or an elected official of this state.

(h)  The commission may adopt rules providing for a person's reciprocal determination of suitability to hold a casino license based in part on a determination of suitability to own and operate a casino in any other jurisdiction the commission considers reasonable in light of the purpose of this chapter.

Sec. 2202.056.  REVIEW OF APPLICATION. (a) The commission shall issue an order approving or denying an application for a casino license not later than 180 days after the date the application is filed.

(b)  The commission may adopt rules for issuing any temporary or interim licenses the commission finds necessary to administer this chapter.

Sec. 2202.057.  TRANSFERABILITY; SITE. A casino license is not transferable unless approved in advance by the commission. A casino license authorizes casino gaming only at the specific site identified in the license.

Sec. 2202.058.  REPLACEMENT CASINO LICENSE. (a) Provided that the number and location of casinos operating pursuant to active casino licenses does not exceed any limit or violate any restriction established by the Texas Constitution, if a casino license has expired without being renewed, been revoked, or been permanently surrendered, the commission may issue a replacement casino license to an applicant that proposes to conduct casino gaming at the same destination resort that operated pursuant to the now-expired, now-revoked, or now-permanently surrendered license or at a new destination resort located in the same metropolitan statistical area. A casino license issued to conduct casino gaming at a new destination resort located in the same metropolitan statistical area as a destination resort that operated pursuant to a now-expired, now-revoked, or now-permanently surrendered license shall include a condition requiring the license holder to make minimum new investments for the development of the new destination resort in the amount required of an initial qualified applicant, as that term is used in the Texas Constitution.

(b)  In determining whether to issue a casino license to an applicant under Subsection (a), the commission shall determine the initial suitability of the applicant using the considerations and requirements established in Sections 2202.054 and 2202.055.

(c)  The commission may adopt rules providing additional considerations or requirements related to issuance of a casino license pursuant to Subsection (a).

Sec. 2202.059.  DENIAL, SUSPENSION, AND REVOCATION. (a) The commission may deny an application for a casino license or suspend or revoke a casino license if the commission determines that the applicant or casino license holder is unsuitable to hold a casino license based on the applicant's or casino license holder's failure to meet or maintain the requirements of Section 2202.054 or the applicant's or casino license holder's lack of suitability as determined by the commission pursuant to Section 2202.055.

(b)  If the commission has reasonable grounds to believe that an applicant may be unsuitable as provided by Subsection (a), the commission shall conduct an investigation and hearing under Sections 2202.351 and 2202.356 and may, based on its determination, deny issuance of the license.

(c)  If the commission has reasonable grounds to believe that a casino license holder may be unsuitable to continue to hold a casino license, the commission shall conduct an investigation and hearing under Sections 2202.351 and 2202.356 and may, based on its determination, suspend, limit, or revoke the license. On suspension or revocation of a casino license, the license holder must immediately cease all casino gaming activities.

(d)  If the holder of a casino license fails to begin construction of a casino within 24 months after the receipt of the casino license, or fails to begin casino gaming operations within five years after the receipt of the license, the license may be forfeited, unless the commission, for good cause, has previously granted an appropriate extension of time. The commission shall adopt rules regarding the process and substantive reasons for granting an extension of time.

Sec. 2202.060.  REGISTRATION OF INTEREST IN APPLICANT OR LICENSE HOLDER. (a) Except as provided by Subsection (b), a person who directly or indirectly owns an equity interest in an applicant for a casino license or a casino license holder shall register and qualify with the commission under commission rules and shall provide information the commission finds necessary to determine the suitability and eligibility of the person to retain the interest.

(b)  The following persons are not required to register or qualify under this section:

(1)  a key employee of the casino license holder that is required to apply for an occupational license under Section 2202.102;

(2)  an institutional investor that is a record owner of 25 percent or less of the total equity of the casino license holder;

(3)  a person that beneficially owns five percent or less of the total equity of the casino license holder; and

(4)  any other group or class of persons that the commission by rule exempts from registration or qualification.

(c)  A casino license holder shall provide to the commission the name, address, and interest in the casino license holder of each person who is exempt from registration or qualification under Subsection (b).

(d)  A registration filed under this section must be accompanied by the application fee set out in Section 2202.202.

Sec. 2202.061.  TRANSFERABILITY OF INTEREST; LIMITATION ON OWNERSHIP. (a) Except as provided by this subsection, a casino license holder may not issue an equity interest to a person without the commission's determination of the qualification of the proposed subscriber or purchaser to hold the interest. A casino license holder that is a publicly held company or is wholly owned by one or more publicly held companies may issue equity interests of five percent or less of its equity interest to any person without the consent of the commission.

(b)  A person beneficially owning more than five percent of the equity interest of a casino license holder may not transfer an interest in the license holder requiring qualification under Section 2202.060 to any person without the commission's determination of the qualification of the proposed transferee to hold the interest, except that a person may transfer five percent or less of its interest in the license holder to an affiliate of the transferor or an individual related to the transferor within the fourth degree by affinity or consanguinity, as determined under Chapter 573, Government Code, provided that notice is given to the commission at least 90 days in advance of the transfer.

(c)  A person beneficially owning more than five percent of the equity interest of a casino license holder may not simultaneously beneficially own more than five percent of the equity interest of more than one other casino license holder licensed under this subtitle.

(d)  A subscriber or proposed transferee of an interest by a casino license holder shall provide the commission with information the commission considers necessary to determine the qualification of the person. The commission, not later than 60 days after the date of the application, shall determine the qualification of a subscriber or proposed transferee and approve or deny the issuance or transfer.

Sec. 2202.062.  DETERMINATION OF QUALIFICATION. (a) The commission shall determine the qualification of a person to acquire or continue to hold an equity interest in an applicant for or holder of a casino license based on the qualification requirements the commission adopts for the protection of the public interest to ensure that persons holding securities issued by license holders are of good character, honesty, integrity, and financial stability, and are otherwise qualified to hold the interest.

(b)  The burden of proving qualification to acquire or hold an equity interest in a license holder is on the person acquiring or holding the interest.

(c)  A person is unsuitable to acquire or retain an equity interest in an applicant for or holder of a casino license if the person would be unsuitable to receive a casino license under Section 2202.055(g).

(d)  If the commission has reasonable grounds to believe that a person holding an equity interest in an applicant for or holder of a casino license may be unqualified to retain the person's interest, the commission shall conduct an investigation and hearing under Sections 2202.351 and 2202.356 and may, based on its determination, issue an unsuitability finding and divestiture order to the holder of the interest and the issuer of the interest. On receipt of a divestiture order, the person holding the interest shall tender the person's entire interest for purchase to the issuer or a third party on terms the commission approves.

(e)  If the commission issues an unsuitability finding and divestiture order to a holder of an equity interest, the person subject to the order may not:

(1)  receive, directly or indirectly, a dividend, interest, payment, or distribution of any kind relating to the security that is the subject of the order; or

(2)  exercise, directly or indirectly, any voting power or other right with respect to the security to which the order relates.

(f)  A person subject to an order may receive payment for the sale of the person's interest on terms the commission approves.

Sec. 2202.063.  HORSE RACING; GREYHOUND RACING; SCOPE OF COMMISSION AUTHORITY GOVERNING RACETRACK ASSOCIATIONS. (a) The commission by rule shall ensure that a casino license holder that is also a racetrack association that holds a license to conduct a horse race meeting pursuant to Subtitle A-1, Title 13 (Texas Racing Act) at a class 1 racetrack continues to maintain live horse racing operations consistent with a minimum number of live race dates that were conducted in the calendar year 2022.

(b)  A racetrack association that holds a license to conduct a greyhound race meeting pursuant to Subtitle A-1, Title 13 (Texas Racing Act) shall cease all greyhound racing operations and surrender that license as a condition to receiving and holding a casino license or naming a designee to receive and hold a casino license as provided by the Texas Constitution.

(c)  If required by the Texas Constitution, a racetrack association that holds a license to conduct a race meeting at a racetrack pursuant to Subtitle A-1, Title 13 (Texas Racing Act) shall cease all racing operations at that racetrack and surrender that license as a condition to receiving and holding a casino license or naming a designee to receive and hold a casino license as provided by the Texas Constitution.

(d)  Except as otherwise authorized by the commission, the casino operations and financial records of a casino license holder that is also a racetrack association shall be kept separate from the racing operations and records of the license holder.

(e)  Activities regulated by the Texas Racing Commission pursuant to Subtitle A-1, Title 13 (Texas Racing Act) are not subject to the authority of the commission.

Sec. 2202.064.  TERM OF CASINO LICENSE. Each casino license issued under this subchapter expires on the 50th anniversary of the date of issuance and may be renewed for one or more terms of 50 years.

Sec. 2202.065.  LOCAL ZONING LAWS. Notwithstanding any other law, destination resorts at which casino gaming is authorized under this subchapter shall be subject to any applicable local government zoning and land use regulations in place on January 1, 2023. To the extent destination resorts could be classified under multiple regulations or classifications, local government zoning and land use authorities shall treat and classify destination resorts under the most permissive classification so as to ensure the maximum economic benefit to the state in the shortest possible timeline.

SUBCHAPTER C. OPERATOR LICENSE AND OCCUPATIONAL LICENSE

Sec. 2202.101.  OPERATOR LICENSE. A person may not provide services as an operator unless the person holds an operator license. An operator license holder must hold a separate operator license for each casino that the license holder operates.

Sec. 2202.102.  OCCUPATIONAL LICENSE. (a) Except as provided by Subsection (b), a person may not be employed as a gaming employee unless the person holds an occupational license.

(b)  A casino license holder or operator license holder is not required to obtain an occupational license to provide services as a gaming employee in the casino to which the license relates.

(c)  A casino license holder shall designate not fewer than one occupational license holder as a key employee having responsibility over all gaming activities. The commission shall note on each key employee's occupational license that the individual is designated as a key employee. At least one key employee must be available at the casino at all times when casino gaming is conducted on the casino license holder's premises.

Sec. 2202.103.  APPLICATION. (a) An application for an operator license or an occupational license shall be made in compliance with commission rules and must contain information the commission finds necessary to determine the suitability and eligibility of the applicant to function as a casino operator or to be employed or retained as a gaming employee.

(b)  An application for an operator license or an occupational license must be accompanied by the required application fee.

(c)  The commission may issue a temporary operator license and a temporary occupational license. The commission shall adopt rules regarding the terms of temporary operator licenses and temporary occupational licenses.

Sec. 2202.104.  RESIDENCY. A person is eligible to apply for and hold an operator license or occupational license without regard to the residency of the applicant.

Sec. 2202.105.  DETERMINATION OF SUITABILITY. (a) The commission shall determine the suitability of an applicant for or holder of an operator license or occupational license based on suitability criteria the commission adopts in order to ensure that a license holder:

(1)  is of good character, honesty, and integrity;

(2)  has sufficient business probity, competence, and training or experience in the gaming industry to perform the function contemplated; and

(3)  is otherwise qualified to be licensed.

(b)  The burden of proving suitability to receive and hold an operator license or occupational license is on the applicant or license holder.

(c)  In considering the suitability of a company applying for or holding an operator license or occupational license to receive and continue to hold the license, the commission shall consider the suitability of each principal manager and each holder of more than five percent of the equity interest of the company to individually receive and hold an occupational license based on the suitability standards that apply to the applicants for the license generally.

(d)  A person may not be found suitable to receive or hold an operator license or occupational license if that person would be found unsuitable to hold a casino license under Section 2202.055(g), except that an applicant for an operator license or occupational license who has been convicted of a felony may be found suitable if the person is found to be adequately rehabilitated under applicable rehabilitation requirements adopted by the commission and the applicant or license holder is otherwise suitable for licensing.

Sec. 2202.106.  DENIAL, SUSPENSION, AND REVOCATION. (a) The commission may deny an application for an operator license or occupational license or suspend, limit, or revoke an operator license or occupational license for a reasonable cause.

(b)  If the commission has reasonable cause to believe that an operator license holder or occupational license holder may be unsuitable to continue to hold the license, giving due consideration to the protection of the health, safety, morals, and general welfare of this state and to the reputation of the state's gaming industry, the commission shall conduct an investigation and hearing under Sections 2202.351 and 2202.356 and may, based on its determination, suspend, limit, or revoke the license. On the suspension or revocation of an operator license or occupational license, the license holder shall cease the provision of all services in any capacity requiring a license under Section 2202.101 or 2202.102.

(c)  A holder of an operator license or occupational license that has been revoked or suspended may not, while the license is revoked or suspended:

(1)  receive, directly or indirectly, any compensation, consideration, or payment of any kind relating to the conduct of casino gaming in any capacity requiring a license under Section 2202.101 or 2202.102, other than the payment for services rendered before the suspension or revocation; or

(2)  serve or function in a capacity that would require a license under Section 2202.101 or 2202.102.

SUBCHAPTER D. MANUFACTURER LICENSE AND CASINO SERVICE LICENSE

Sec. 2202.151.  MANUFACTURER LICENSE. (a) A person may not engage in any segment of the slot machine manufacturing industry in this state that requires a manufacturer license under this section without obtaining a manufacturer license covering that segment of the industry. This subsection applies only to slot machines manufactured for use in this state.

(b)  The commission shall adopt rules identifying segments of the manufacturing industry directly involved in the design, manufacture, assembly, production, programming, sale, lease, marketing, distribution, repair, or modification of slot machines or component parts of slot machines that the commission finds appropriate for licensing under this section.

(c)  A manufacturer license is personal to the license holder and allows the license holder to conduct business with any casino.

Sec. 2202.152.  CASINO SERVICE LICENSE. (a) A person may not engage in any segment of the casino service industry that requires a casino service license under this section without obtaining a casino service license.

(b)  The commission shall adopt rules identifying segments of the casino service industry directly involved with providing casino gaming-related services, equipment, and supplies that the commission finds appropriate for licensing under this section.

(c)  A person is required to obtain a casino service license if the person:

(1)  operates, conducts, or maintains a casino gaming-related business; or

(2)  furnishes goods, property, or services to a casino in exchange for:

(A)  a payment based on a percentage of the earnings, profits, or receipts from the casino; or

(B)  a payment the commission finds to be grossly disproportionate to the value of the goods, property, or service provided.

(d)  A utility company, a retail electric provider, a municipality, or another political subdivision is not required to obtain a casino service license under this section.

(e)  A casino service license is personal to the license holder and allows the license holder to conduct business with any casino.

(f)  A casino license holder or operator license holder or an employee, officer, or director of a casino license holder or operator license holder is not required to obtain a casino service license to provide services for or in the casino to which the casino license or operator license relates.

Sec. 2202.153.  APPLICATION. (a) A person seeking a manufacturer license or casino service license shall submit an application in accordance with commission rules.

(b)  The application must:

(1)  contain information the commission finds necessary to determine the suitability and eligibility of the applicant; and

(2)  be accompanied by the required application fee.

Sec. 2202.154.  DETERMINATION OF SUITABILITY. (a) In considering the suitability of a company applying for or holding a manufacturer license or casino service license to receive and continue to hold the license, the commission shall consider the suitability of each principal manager and each holder of more than five percent of the equity interest of the company to individually receive and hold a manufacturer license or casino service license based on the suitability standards that apply to the company applicant.

(b)  A person may not be found suitable to receive or hold a manufacturer license or casino service license if that person would be found unsuitable to hold a casino license under Section 2202.055(g), except that an applicant for a manufacturer license or casino service license who has been convicted of a felony may be found suitable if the person is found to be adequately rehabilitated under applicable rehabilitation requirements adopted by the commission and the applicant or license holder is otherwise suitable for licensing.

Sec. 2202.155.  DENIAL, SUSPENSION, AND REVOCATION. (a) The commission may deny an application for a manufacturer license or casino service license or suspend, limit, or revoke a manufacturer license or casino service license for a reasonable cause.

(b)  If the commission has reasonable grounds to believe that a manufacturer license or casino service license holder may be unsuitable to continue to hold the license, giving due consideration to the protection of the health, safety, morals, and general welfare of this state and to the reputation of the state's gaming industry, the commission shall conduct an investigation and hearing under Sections 2202.351 and 2202.356 and may, based on its determination, suspend, limit, or revoke the license.

(c)  On suspension or revocation of a license, the license holder must cease the performance of manufacturing activity or casino service requiring a license under this chapter. After the revocation or suspension of the license, the affected license holder may not, while the license is revoked or suspended, receive, directly or indirectly, compensation, consideration, or payment of any kind relating to manufacturing activity or provision of casino services in any capacity requiring a license under this chapter, other than the payment for goods or services provided before the suspension or revocation.

(d)  A casino license holder or an operator license holder who has entered into a lease with a manufacturer license holder or casino services license holder whose license has been revoked or suspended may continue to make payments on the lease based on the original terms and conditions of the lease without modification or may accelerate the lease and pay it off, at the sole option of the casino license holder or operator license holder.

(e)  The burden of proving suitability to receive and hold a manufacturer license or casino service license is on the applicant or license holder.

SUBCHAPTER E. LICENSE RENEWAL AND FEES

Sec. 2202.201.  TERMS; RENEWAL. Except as provided by Section 2202.064, an original or renewal license expires on the first anniversary of the date it is issued.

Sec. 2202.202.  APPLICATION FEES. (a) An application fee received under this section must be:

(1)  deposited in the Texas casino gaming fund; and

(2)  used for the operation of the commission.

(b)  An applicant for a casino license must pay an application fee of the following amount, regardless of whether the destination resort with the casino has been constructed:

(1)  $2.5 million for a license for a casino located within a destination resort that requires or required a minimum new investments commitment of at least $2 billion;

(2)  $1.25 million for a license for a casino located within a destination resort that requires or required a minimum new investments commitment of at least $1 billion; or

(3)  $500,000 for a license for a casino located within a destination resort that requires or required a minimum new investments commitment of at least $250 million.

(c)  An applicant for a manufacturer license must pay an application fee of $1,000.

(d)  An applicant for an operator license must pay an application fee of $1,000.

(e)  An applicant for a casino service license must pay an application fee of $200.

(f)  A person registering and applying to qualify to hold an equity interest in a license holder must pay an application fee of $200.

(g)  An individual applying for an occupational license must pay an application fee of $100.

(h)  All application fees must be in the form of a money order or cashier's check and be payable to the Texas Gaming Commission, except that the commission may provide for the payment of the fees by electronic funds transfer or similar method. Application fees are nonrefundable.

(i)  Application fees shall be applied toward the cost of investigating applicants' suitability for licensing or qualification under this chapter. Any costs of investigation incurred in excess of the application fee shall be paid by the applicant, except that the commission may by rule provide for an exception to this requirement for casino service licenses and occupational licenses.

(j)  Applicants who are granted a license pursuant to Subsections (c), (d), (e), (f), and (g) shall be required to renew their license annually and pay a renewal fee equal to the original application fee.

SUBCHAPTER F. TEXAS CASINO GAMING FUND; TAXES

Sec. 2202.251.  TEXAS CASINO GAMING FUND. (a) The Texas casino gaming fund is a special fund in the state treasury.

(b)  All application fees and investigation fees, collected by the commission or on the commission's behalf related to casino gaming shall be deposited to the credit of the Texas casino gaming fund.

(c)  The Texas casino gaming fund may be used only for the operation of the commission and the administration of this chapter. If the money in the fund exceeds the amount necessary for the operation of the commission and the administration of this chapter, the legislature may transfer any excess amount to the general revenue fund.

(d)  The operation of the commission and the administration of this chapter shall be supported by fees generated under this chapter and by a portion of the taxes imposed by Section 2202.252.

Sec. 2202.252.  CASINO GAMING TAX; SPORTS WAGERING TAX; ALLOCATION OF TAXES. (a) A casino gaming tax is imposed on each casino license holder in an amount equal to 15 percent of the gross casino gaming revenue of the casino operated under the license.

(b)  The taxes imposed by this section shall be computed and paid on a monthly basis in accordance with the procedures established by commission rule.

(c)  Except as provided by Subsection (d), the revenue from the taxes imposed by this section is allocated to the general revenue fund.

(d)  Of the revenue from the casino gaming tax imposed by Subsection (a):

(1)  the comptroller shall deposit two percent to the credit of the escrow account administered by the Texas Racing Commission and established under Section 2028.204(b) to be used as horse racing purses in this state;

(2)  three percent shall be allocated to the Texas casino gaming fund to support the operation of the commission and administration of this chapter;

(3)  0.5 percent shall be allocated to the general revenue fund and may be appropriated only to fund a compulsive gambling program established under Subchapter J;

(4)  $1 million may be appropriated in each state fiscal biennium to the Department of Public Safety to be used to provide grants to prosecuting attorneys for the investigation and prosecution of offenses related to the possession of gambling devices;

(5)  the comptroller shall deposit 30 percent to the credit of the property tax relief fund under Section 403.109, Government Code;

(6)  30 percent may be appropriated only to fund public safety programs; and

(7)  30 percent may be appropriated only to fund education.

(e)  To promote the growth of live horse racing in this state, amounts deposited pursuant to Subsection (d)(1) shall be allocated to horse racetrack associations by the Texas Racing Commission based on the number of live race dates conducted by each licensed horse racetrack association. The Texas Racing Commission may adopt rules to effect the purposes of this subsection.

(f)  A sports wagering tax is imposed on each license holder in an amount equal to 10 percent of the gross sports wagering revenue of the license holder.

(g)  The taxes imposed by this section are due and payable on or before the 20th day of the month following the month in which the taxes are imposed.

(h)  If the amount of taxes required to be reported and paid under this section is later determined to be greater or less than the amount actually reported and paid by the license holder, the commission shall:

(1)  assess and collect the additional taxes determined to be due with interest until paid; or

(2)  refund any overpayment, with interest, to the license holder.

(i)  Interest required to be collected or refunded under Subsection (h) must be computed, until paid, at the rate of one percent per month from the first day of the first month following the due date or overpayment of the taxes.

Sec. 2202.253.  DETERMINATION OF GROSS CASINO GAMING REVENUE. (a) In calculating gross casino gaming revenue, a prize, premium, drawing, benefit, or ticket that is redeemable for money, merchandise, or other promotional allowance, except money, chips, or tokens paid at face value directly to a patron as the result of a specific wager and the amount of cash paid to purchase an annuity to fund winnings, may not be deducted from gross casino gaming revenue as a loss at any game except a slot machine or a table game with a progressive jackpot.

(b)  In calculating gross casino gaming revenue from slot machines at a casino, the actual cost to the license holder of any personal property distributed to a patron as the result of a legitimate wager may be deducted as a loss, but travel expenses, food, refreshments, lodging, or services at the license holder's casino may not be deducted. For the purposes of this subsection, personal property is distributed as the result of a legitimate wager if a patron must make a wager before receiving the personal property, regardless of whether the receipt of the personal property is dependent on the outcome of the wager.

Sec. 2202.254.  REFUND OF OVERPAYMENT. (a) Taxes imposed under this subchapter that are erroneously collected may be refunded, on approval of the commission, as other claims against the state are paid.

(b)  Not later than the 90th day after the date notice of the commission's action on a claim for refund filed under this chapter is sent by mail, the claimant may bring an action against the commission on the grounds stated in the claim for the recovery of any part of the amount of the claim that has been disallowed.

(c)  Failure to bring an action within the time specified by Subsection (b) constitutes a waiver of any demand against the state on account of alleged overpayments.

(d)  If the commission fails to mail its notice of action on a claim within six months after the date the claim is filed, the claimant may consider the claim disallowed and bring an action against the commission on the grounds set forth in the claim for the recovery of any part of the amount claimed as an overpayment.

(e)  A claim for refund of taxes imposed under this subchapter that are paid in excess of the amount required to be reported and paid must be filed not later than two years after the date of overpayment.

Sec. 2202.255.  DETERMINATION OF DEFICIENCY. (a) If a casino license holder fails to make a report of the taxes imposed under this subchapter as required by this chapter, or if the executive director is not satisfied with the license holder's report of the taxes, the executive director may compute and determine the amount required to be paid based on:

(1)  any facts contained in the report;

(2)  an audit conducted by the executive director;

(3)  an estimate of the amount of taxes due;

(4)  any information in the commission's possession or that may come into the executive director's possession; or

(5)  any combination of the methods described by Subdivisions (1)-(4).

(b)  In making a determination, the commission may offset overpayments and interest due against underpayments and interest or penalties due for the period of the audit.

(c)  The executive director shall give prompt written notice of a determination of a deficiency under this section to the casino license holder. Except in the case of fraud or intent to evade the payment of the tax, a notice of a determination of a deficiency must be mailed not later than that latter of the second anniversary of the:

(1)  last day of the calendar month following the applicable reporting period in which the deficiency occurred; or

(2)  date the report is filed by the license holder.

(d)  If the reasons for the deficiency are not apparent, the executive director shall include an explanation of those reasons in the notice of a determination of a deficiency.

(e)  If overpayments and interest exceed underpayments, penalties, and interest, the excess amount shall be refunded to the casino license holder.

Sec. 2202.256.  PETITION FOR REDETERMINATION; PETITION FOR JUDICIAL REVIEW. (a) A casino license holder against whom a determination is made under Section 2202.255 may petition the commission for a redetermination not later than the 30th day after the date of service of notice of the determination. If a petition for redetermination satisfying the requirements of Subsection (c) is not filed within the 30-day period, the determination becomes final.

(b)  If a petition for redetermination satisfying the requirements of Subsection (c) is filed within the 30-day period, the commission shall review the determination and, if the petitioner requests, shall grant a hearing.

(c)  A petition for redetermination must:

(1)  specify the contested portions of the determination of deficiency;

(2)  specify the grounds for redetermination;

(3)  state whether a hearing is requested; and

(4)  be accompanied by payment in full of the uncontested portion of the determination, including any interest and penalties.

(d)  An order or decision of the commission on a petition for redetermination is final 10 days after the date of service on the petitioner.

(e)  A petitioner against whom an order or decision of the commission becomes final may, not later than the 60th day after the date the decision is final, petition for judicial review in the manner provided by Chapter 2001, Government Code. The executive director may not petition for judicial review.

Sec. 2202.257.  TAX ADMINISTRATION. (a) The commission shall perform all functions incident to the administration, collection, enforcement, and operation of a fee or tax imposed under this chapter. The commission may adopt rules and prescribe forms for the administration, collection, and enforcement of a fee or tax and for the reporting of a fee or tax.

(b)  Subtitle B, Title 2, Tax Code, applies to the administration, collection, and enforcement of a tax imposed under this subchapter, except that the powers and duties assigned to the comptroller under that subtitle are assigned to the commission.

SUBCHAPTER G. REGULATION OF GAMBLING OPERATIONS

Sec. 2202.301.  REGULATION OF CASINO OPERATIONS. (a) The commission shall adopt rules applicable to the operation of casinos as the commission finds necessary for the protection of the health, safety, morals, and general welfare of this state and for the reputation of the state's casino gaming industry.

(b)  Casinos may operate 24 hours a day, seven days a week. A license holder may elect other hours of operation.

Sec. 2202.302.  SPORTS WAGERING. Sports wagering is authorized only pursuant to a license issued by the commission and is subject to rules established by the commission.

Sec. 2202.303.  USE OF CHIPS OR TOKENS. All casino gaming must be conducted with legal tender of the United States or with chips, tokens, or other instrumentality approved by the commission for that purpose.

Sec. 2202.304.  REPORTING REQUIREMENTS. (a) A casino license holder shall keep the license holder's books and records in a manner that clearly shows the total amount of gross casino gaming revenue and gross sports wagering revenue, as applicable, and other revenues received.

(b)  The books and records kept by a casino license holder relating to casino gaming operations are not public records and the publication and dissemination of the materials by the commission is

prohibited.

(c)  A casino license holder shall file a report of each change of the corporate officers and directors with the commission.

(d)  A casino license holder shall report to the executive director in writing a change in company employees who have been designated as key employees.

(e)  The commission may require that a company furnish the commission with a copy of its federal income tax return not later than the 30th day after the date the return is filed with the federal government.

Sec. 2202.305.  EXCLUSION OF PERSONS. (a) The commission by rule shall provide for the establishment of a list of persons who must be excluded or ejected from a casino. The list may include a person whose presence in the casino or establishment is determined by the commission to pose a threat to the interests of this state, to licensed casino gaming, or to both interests.

(b)  In making a determination under this section, the commission may consider any:

(1)  prior conviction of a crime that is a felony in this state or under the laws of the United States or a crime involving moral turpitude or a violation of the gaming laws of a state; or

(2)  violation of or conspiracy to violate this chapter relating to:

(A)  the failure to disclose an interest in a casino for which the person must obtain a license;

(B)  willful evasion of a fee or a tax;

(C)  notorious or unsavory reputation that would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive elements; or

(D)  a written order of a governmental agency that authorizes the exclusion or ejection of the person from a casino where casino gaming or pari-mutuel wagering is conducted.

Sec. 2202.306.  INTERNAL AUDIT AND CONTROL SYSTEMS. (a) A casino license holder shall adopt an internal control system that provides for:

(1)  the safeguarding of its assets and revenues, especially the recording of cash and evidences of indebtedness; and

(2)  the provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the executive director and the commission.

(b)  The internal control system must be designed to reasonably ensure that:

(1)  assets are safeguarded;

(2)  financial records are accurate and reliable;

(3)  transactions are performed only in accordance with management's general or specific authorization;

(4)  transactions are recorded adequately to allow proper reporting of gross casino gaming revenue, gross sports wagering revenue, and of fees and taxes and to maintain accountability for assets;

(5)  access to assets is allowed only in accordance with management's specific authorization;

(6)  recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies; and

(7)  functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

(c)  A casino license holder and an applicant for a casino license shall describe, in a manner approved or required by the executive director, the license holder's or applicant's administrative and accounting procedures in detail in a written system of internal control. A casino license holder and applicant for a casino license shall submit a copy of the license holder's or applicant's written system to the executive director. A written system must include:

(1)  an organizational chart depicting appropriate segregation of functions and responsibilities;

(2)  a description of the duties and responsibilities of each position shown on the organizational chart;

(3)  a detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of Section 2202.304(a);

(4)  a written statement signed by the license holder's chief financial officer and either the license holder's chief executive officer or the casino license holder attesting that the system satisfies the requirements of this section;

(5)  if the written system is submitted by an applicant, a letter from an independent certified public accountant stating that the applicant's written system has been reviewed by the certified public accountant and complies with the requirements of this section; and

(6)  other items the executive director may require.

(d)  The commission shall adopt minimum standards for internal control procedures.

Sec. 2202.307.  AGE REQUIREMENTS. A person under the age of 21 years may not:

(1)  play, be allowed to play, place wagers, or collect winnings from, personally or through an agent, any casino gaming or sports wagering authorized under this chapter; or

(2)  be employed as a gaming employee.

Sec. 2202.308.  ACCEPTANCE OF CREDIT INSTRUMENTS. (a) A credit instrument evidencing a gaming transaction may be enforced by legal process.

(b)  A license holder may accept an incomplete credit instrument that is signed by a patron and states the amount of the debt. The license holder may complete the instrument as is necessary for the instrument to be presented for payment.

(c)  A license holder:

(1)  may not accept a credit instrument that is incomplete, except as authorized by Subsection (b); and

(2)  may accept a credit instrument that is payable to an affiliate or may complete a credit instrument in the name of an affiliate as payee if the credit instrument otherwise complies with this section and the records of the affiliate pertaining to the credit instrument are made available to the executive director on request.

(d)  This section does not prohibit the establishment of an account by a deposit of cash, recognized traveler's check, or any other instrument that is equivalent to cash.

(e)  Any person, license holder, or the agents or employees of the person or license holder who violate this section are subject only to the penalties provided in this chapter relating to disciplinary actions. The failure of a person to comply with this section or commission rules does not invalidate a credit instrument or affect the ability to enforce the credit instrument or the transaction that the credit instrument represents.

Sec. 2202.309.  GAMBLING DEBTS. (a) Except as otherwise provided by this chapter, gambling debts not evidenced by a credit instrument are void and unenforceable and do not give rise to any administrative or civil cause of action.

(b)  A claim by a patron of a license holder for payment of a gambling debt not evidenced by a credit instrument may be resolved by the executive director under commission rules.

(c)  The executive director shall send a copy of the director's ruling by first class mail to the attorneys of record and shall keep an appropriate copy of the mailing. If a party is not represented by an attorney of record, the executive director shall send a copy of the ruling by first class mail to the party and shall keep an appropriate record of the mailing.

(d)  A party or attorney of record notified by mail under this section is presumed to have been notified on the date on which the notice is mailed.

(e)  A party aggrieved by the executive director's ruling is entitled to have the claim resolved by the commission in a contested case under Chapter 2001, Government Code, if the party files a written complaint with the commission challenging the executive director's decision not later than the 20th day after the date on which the party or the party's attorney of record is notified by mail.

Sec. 2202.310.  QUESTIONING AND DETENTION OF PERSONS. (a) On the premises of a license holder's casino, the casino license holder or the license holder's officer, employee, or agent may question any person suspected of acting in violation of this chapter while on the casino premises. The casino license holder or the license holder's officer, employee, or agent is not criminally or civilly liable:

(1)  as a result of the questioning; or

(2)  for reporting the person suspected of the violation to the executive director or law enforcement authorities.

(b)  A casino license holder or the license holder's officer, employee, or agent who has reasonable cause to believe that there has been a violation of this chapter in the license holder's casino by a person may take that person into custody and detain the person in the casino in a reasonable manner and for a reasonable length of time. The taking into custody and detention does not render a license holder or the license holder's officer, employee, or agent criminally or civilly liable unless it is established by clear and convincing evidence that the taking into custody and detention are unreasonable under all the circumstances.

(c)  A casino license holder or the license holder's officer, employee, or agent is not entitled to the immunity from liability provided by Subsection (a) or (b) unless there is displayed in a conspicuous place in the license holder's establishment a notice in boldface type, clearly legible, and in substantially this form:

A CASINO LICENSE HOLDER OR THE HOLDER'S OFFICER, EMPLOYEE, OR AGENT WHO HAS A REASONABLE CAUSE TO BELIEVE THAT A PERSON HAS VIOLATED A PROVISION OF CHAPTER 2202, OCCUPATIONS CODE, MAY QUESTION OR DETAIN THAT PERSON IN THIS ESTABLISHMENT.

Sec. 2202.311.  SLOT MACHINE DISABLED. (a) The commission may disable a slot machine operated by a license holder under this chapter at the time:

(1)  a proceeding to suspend a casino license is initiated;

(2)  the commission discovers the license holder failed to deposit money received from slot machine operations as required if the license is being suspended under this section; or

(3)  an act or omission occurs that, under commission rules, justifies the termination of slot machine operations to:

(A)  protect the integrity of gaming or the public health, welfare, or safety; or

(B)  prevent financial loss to this state.

(b)  The commission shall immediately disable a slot machine if necessary to protect the public health, welfare, or safety.

Sec. 2202.312.  SLOT MACHINE DISTRIBUTION AND COMMISSION APPROVAL. (a) A person may not distribute a slot machine or other gaming device or associated equipment for placement at a casino in this state unless the machine or equipment has been approved by the commission.

(b)  Only a person that holds a casino license or manufacturer license issued under this chapter may apply for approval of a slot machine or other gaming device or associated equipment.

Sec. 2202.313.  TECHNICAL STANDARDS FOR GAMING EQUIPMENT. The commission by rule shall establish minimum technical standards for gaming devices and associated equipment that may be operated in this state.

Sec. 2202.314.  INCIDENT REPORTS. (a) A casino license holder or casino operator license holder shall record all potential criminal violations known to the license holder and related to casino gaming or sports wagering activity in the casino.

(b)  The casino license holder or casino operator license holder for a casino shall assign each incident, without regard to materiality, a sequential number and, at a minimum, provide the following information in a permanent record prepared in accordance with commission rules to ensure the integrity of the record:

(1)  the number assigned to the incident;

(2)  the date and time of the incident;

(3)  the nature of the incident;

(4)  each person involved in the incident; and

(5)  the name of the employee or other agent of the owner or operator who investigated the incident.

Sec. 2202.315.  SLOT MACHINE EVENTS. A casino license holder or operator license holder shall keep a database of slot machine events. The commission by rule shall determine what constitutes a slot machine event for purposes of this section.

Sec. 2202.316.  SECURITY. (a) The casino license holder or operator license holder shall:

(1)  continuously monitor all slot machines through the use of a closed-circuit television system that records activity for a continuous 24-hour period, retain all videotapes or other media used to store video images for not fewer than seven days, and make the tapes or media available to the commission on request;

(2)  submit for commission approval a security plan and a floor plan of the area where slot machines are operated showing slot machine locations and security camera mount locations; and

(3)  employ at least the minimum number of private security personnel the commission determines is necessary to provide for safe operation of the casino and the safety and well-being of the players.

(b)  Private security personnel must be present during all hours of operation at each casino.

(c)  An agent or employee of the commission or the Department of Public Safety or other law enforcement personnel may be present at a casino at any time.

(d)  The commission may adopt rules to impose additional surveillance and security requirements related to casinos and the operation of slot machines.

Sec. 2202.317.  COMMISSION RIGHT TO ENTER. The commission or the commission's representative, after displaying appropriate identification and credentials, has the free and unrestricted right to:

(1)  enter and inspect the premises wherein casino gaming or sports wagering is conducted or any premises where gaming devices, table games, or associated equipment are manufactured, sold, or distributed; and

(2)  inspect and copy the records of a casino license holder or operator license holder pertaining to the operation of casino gaming or sports wagering.

Sec. 2202.318.  APPOINTMENT OF SUPERVISOR. (a) The commission by rule may provide for the appointment of a supervisor to manage and operate a casino at the direction of the commission and perform any act that a casino license holder or operator license holder is entitled to perform in the event that:

(1)  the casino license or operator license or other license required for operation of the casino is revoked or suspended, lapses, or is surrendered;

(2)  a casino has been conveyed or transferred to a secured party receiver or trustee who does not hold the necessary licenses to operate the casino; or

(3)  any other event occurs that causes the casino to cease the operation of slot machines.

(b)  The rules may allow the commission to:

(1)  take any action or adopt any procedure necessary to operate a casino pending the licensing of a casino license applicant or operator license applicant that seeks to operate the casino on the transfer or sale of the casino; and

(2)  if necessary to continue the operation of the casino, sell the casino to a person that holds or has applied for the licenses required to operate the casino under this chapter and make appropriate distributions of the proceeds of the sale.

Sec. 2202.319.  OFFENSE: CONVEYANCE OF CASINO PROPERTY. (a) A person commits an offense if during the pendency of any proceeding before the commission that may result in the appointment of a supervisor or during the period of supervision the person:

(1)  sells, leases, or otherwise conveys for less than full market value or pledges as security any property of a casino; or

(2)  removes from this state or secretes from the commission or the supervisor any property, money, books, or records of the casino, including evidences of debts owed to the casino.

(b)  An offense under Subsection (a) is a felony of the third degree.

SUBCHAPTER H. ENFORCEMENT

Sec. 2202.351.  ENFORCEMENT. (a) The executive director shall conduct an appropriate investigation to:

(1)  determine whether there has been a violation of this chapter or of a commission rule;

(2)  determine facts, conditions, practices, or matters that the executive director considers necessary or proper to aid in the enforcement of a law or rule;

(3)  aid in adopting rules;

(4)  secure information as a basis for recommending legislation relating to this chapter;

(5)  determine facts regarding whether an applicant or a license holder meets all requirements and suitability criteria to be eligible to hold a license under this subtitle; and

(6)  determine whether a license holder is able to meet the license holder's financial obligations, including all financial obligations imposed by this chapter, as they become due.

(b)  If after an investigation the executive director is satisfied that a license should be denied, limited, conditioned, suspended, or revoked, or that a fine should be levied, the executive director shall initiate a hearing under Section 2202.356.

Sec. 2202.352.  ABSOLUTE PRIVILEGE FOR REQUIRED DOCUMENTS AND COMMUNICATIONS; PRIVILEGED DOCUMENTS. (a) An applicant or license holder has absolute privilege for the content of any document or communication of the applicant or license holder that is transmitted or made to the commission, its employees, or its designees to comply with any law, including a commission rule, to comply with a subpoena issued by the commission, or to assist the commission, its employees, or its designees in the performance of their respective duties. Any such document or communication does not impose liability for defamation and is not a ground for recovery in any civil action by a person other than the commission.

(b)  If a document or communication contains information that is privileged under this state's law or the law of any other jurisdiction in which the document or communication is created or stored, the privilege is not waived or lost because the document or communication is disclosed to the commission, its employees, or its designees.

(c)  Notwithstanding the powers granted to the commission and the executive director by this chapter:

(1)  the commission, its employees, and its designees may not release or disclose privileged information, documents, or communications provided by an applicant or license holder and required by a lawful court order unless timely notice of the potential release or disclosure has been given to the applicant or license holder and the applicant or license holder has provided prior written consent to the release or disclosure;

(2)  the commission, its employees, and its designees shall maintain all privileged information, documents, and communications in a secure place accessible only to members of the commission, its employees, or its designees; and

(3)  the commission shall adopt procedures to protect the privileged nature of information, documents, and communications provided by an applicant or license holder.

Sec. 2202.353.  RELEASE OF CONFIDENTIAL INFORMATION. An application to a court for an order requiring the commission or the executive director to release any information declared by law to be confidential shall be made only on a motion in writing delivered not later than the 10th day before the date of application to the commission, the attorney general, and all persons who may be affected by the entry of the order. Copies of the motion and all papers filed in support of the motion shall be served with the notice by delivering a copy in person or by certified mail to the last known address of the person to be served.

Sec. 2202.354.  EMERGENCY ORDERS. (a) The commission may issue an emergency order for suspension, limitation, or conditioning of a license or may issue an emergency order requiring a casino to keep an individual license holder from the premises of the licensed establishment or to not pay the license holder any remuneration for services or any profits, income, or accruals on the license holder's investment in the casino.

(b)  An emergency order may be issued only if the commission determines that:

(1)  a license holder has wilfully failed to report, pay, or truthfully account for a fee or tax imposed under this chapter or wilfully attempted in any manner to evade or defeat a fee or tax payment;

(2)  a license holder or gaming employee has cheated at a gambling game; or

(3)  the action is necessary for the immediate preservation of the public peace, health, safety, morals, good order, or general welfare.

(c)  The emergency order must state the grounds on which it is issued, including a statement of facts constituting the alleged emergency necessitating the action.

(d)  An emergency order may be issued only with the approval of and under the signature of four or more members of the commission.

(e)  An emergency order is effective immediately on issuance and service on the license holder or resident agent of the license holder, gaming employee, or, in cases involving registration, on issuance and service on the person or entity involved or registered agent of the entity involved. An emergency order may suspend, limit, condition, or take other action in relation to the license of one or more persons in an operation without affecting other individual license holders or the casino. An emergency order remains effective until further order of the commission or final disposition of the case.

(f)  Not later than the fifth day after the date of issuance of an emergency order, the executive director shall file a complaint and serve it on the person or entity involved. The person or entity against whom the emergency order has been issued and served is entitled to a hearing before the commission and to judicial review of the decision and order of the commission under Chapter 2001, Government Code. Judicial review is under the substantial evidence rule, as provided by that chapter.

Sec. 2202.355.  REVOCATION OR SUSPENSION OF LICENSE. (a) The commission may revoke or suspend a license issued under this chapter if the holder of the license at any time fails to meet the eligibility requirements set forth in this chapter.

(b)  Failure to timely remit gaming revenue generated by slot machines to the commission or any tax or other fee owed to this state as demonstrated by report from the applicable taxing authority or to timely file any report or information required under this chapter as a condition of any license issued under this chapter may be grounds for suspension or revocation, or both, of a license issued under this chapter.

Sec. 2202.356.  LICENSE HEARING; DISCIPLINARY HEARING. (a) Before the commission denies an application, or revokes or suspends a license, or imposes a fine for a violation of this chapter, the commission shall provide written notice to the applicant or license holder of the denial, revocation, the period of suspension, or the amount of the fine. The notice shall include:

(1)  the effective date of the denial, revocation, the period of suspension, or the amount of the fine, as applicable;

(2)  each reason for the denial, revocation, suspension, or fine;

(3)  an explanation of the evidence supporting the reasons;

(4)  a statement explaining the person's opportunity to present the applicant's or the license holder's position in response on or before the 15th day after the date the notice is delivered personally or is mailed; and

(5)  a statement explaining the person's right to an administrative hearing to determine whether the denial, revocation, suspension, or fine is warranted.

(b)  The notice required under Subsection (a) must be made by personal delivery or by mail to the person's mailing address as it appears on the commission's records.

(c)  To obtain an administrative hearing on a denial, suspension, revocation, or fine under this section, a person must submit a written request for a hearing to the commission not later than the 20th day after the date notice is delivered personally or is mailed.

(d)  If the commission receives a timely request under Subsection (c), the commission shall provide the person with an opportunity for a hearing as soon as practicable. If the commission does not receive a timely request under Subsection (c), the commission may impose the fine, deny, revoke or suspend a license, or sustain the denial, revocation or suspension without a hearing.

(e)  Except as provided by Subsection (g), the hearing must be held not earlier than the 11th day after the date the written request is submitted to the commission, unless the commission and the hearing requestor agree to an earlier day.

(f)  The commission may provide that a revocation or suspension takes effect on receipt of notice under Subsection (a) if the commission finds that the action is necessary to prevent or remedy a threat to public health, safety, or welfare. The commission by rule shall establish a nonexclusive list of violations that present a threat to the public health, safety, or welfare.

(g)  A hearing on a revocation or suspension that takes effect on receipt of notice must be held not later than the 14th day after the date the commission receives the request for hearing under this section and not earlier than 9th day after the date the written request is submitted to the commission, unless the commission and the hearing requestor agree to an earlier day. The revocation or suspension continues in effect until the hearing is completed. If the hearing is continued, the revocation or suspension shall continue in effect beyond the 14-day period at the request of the hearing requestor or on a finding of good cause by the commission or administrative law judge.

(h)  To prevail in an administrative hearing under this section, the applicant or the license holder must demonstrate by clear and convincing evidence that the denial, deprivation, or imposition of a fine was unwarranted or otherwise unlawful. The hearing may be conducted by the commission or referred to the State Office of Administrative Hearings.

(i)  The administrative record created by the hearing conducted by the State Office of Administrative Hearings shall be provided to the commission for review and determination.

(j)  If an administrative law judge of the State Office of Administrative Hearings conducts a hearing under this section and the proposal for decision supports the commission's position, the administrative law judge shall include in the proposal a finding of the costs, fees, expenses, and reasonable and necessary attorney's fees this state incurred in bringing the proceeding.

(k)  The commission may adopt the findings for costs, fees, and expenses and make the finding a part of the final order entered in the proceeding. Proceeds collected from a finding made under this section shall be paid to the commission.

Sec. 2202.357.  JUDICIAL REVIEW OF DENIAL, REVOCATION, SUSPENSION, OR FINE IMPOSITION. (a) A person aggrieved by a final decision of the commission to deny, revoke, or suspend a license, or to impose any fine may obtain judicial review before a district court in Travis County.

(b)  The judicial review must be instituted by serving on the commission and filing a petition not later than the 20th day after the effective date of the final decision and must identify the order appealed from and the grounds or reason why the petitioner contends the decision of the commission should be reversed or modified.

(c)  The review must be conducted by the court sitting without jury, and must not be a trial de novo but is confined to the record on review. The reviewing court may only affirm the decision, remand the case for further proceedings, or reverse the decision if the substantial rights of the petitioner have been violated.

(d)  If any court of competent jurisdiction concludes on judicial review limited to the administrative record before the commission and subject to the substantial evidence standard that:

(1)  the revocation, suspension, or fine was unwarranted or otherwise unlawful, then the sole remedy available is invalidation of the fine, or reinstatement of the license; or

(2)  the denial of the issuance of the license was unwarranted or otherwise unlawful, then the sole remedy available is invalidation of the commission's final decision and remand to the commission for reconsideration of the application.

(e)  The commission, this state, or the members, officers, employees, and authorized agents of the commission or the state are not under any circumstances subject to monetary damages, attorney's fees, or court costs resulting from a fine imposed or from the denial, revocation, or suspension of a license.

Sec. 2202.358.  EFFECT OF DENIAL OF LICENSE. (a) If a person denied a license has previously been issued a temporary license, the temporary license expires immediately on the issuance of the denial.

(b)  Except as otherwise authorized by the commission, a person denied a license may not reapply for any license before the second anniversary of the date of the denial.

Sec. 2202.359.  AGREEMENT TO WAIVE ENFORCEABILITY. A license holder by virtue of accepting the license agrees that the privilege of holding a license under this chapter is conditioned on the license holder's agreement to Sections 2202.355, 2202.356, and 2202.357 and the license holder waives any right to challenge or otherwise appeal the enforceability of those sections.

Sec. 2202.360.  LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO LIABILITY OF STATE FOR ENFORCEMENT. (a) This state does not waive its sovereign immunity by negotiating gaming agreements with Indian tribes or other persons for the operation of casino gaming or gambling games under this subtitle. An actor or agent for this state may not waive this state's sovereign immunity absent an express legislative grant of that authority.

(b)  With regard to gaming operations on Indian lands, this state consents to the jurisdiction of the District Court of the United States with jurisdiction in the county where the Indian lands are located, or if the federal court lacks jurisdiction, to the jurisdiction of a district court in Travis County, solely for the purpose of resolving disputes arising from a gaming agreement authorized under this chapter or Chapter 2203 for declaratory or injunctive relief or contract damages of $100,000 or more or the failure of the state to enter into a gaming agreement as required by Section 2203.001. Any disputes relating to damages or other awards valued at less than $100,000 shall be arbitrated under the rules of the American Arbitration Association, provided, however, that application of the rules may not be construed as a waiver of sovereign immunity.

(c)  All financial obligations of the commission are payable solely out of the income, revenues, and receipts of the commission and are subject to statutory restrictions and appropriations.

(d)  This state and the commission are not liable if performance by the commission is compromised or terminated by acts or omissions of the legislature or the state or federal judiciary.

(e)  This state and the commission are not liable for acts or omissions related to the enforcement of this subtitle.

SUBCHAPTER I. PENALTIES AND OFFENSES

Sec. 2202.401.  FAILURE TO PAY FEE OR TAX. (a) License fees and other fees required by this chapter must be paid to the commission on or before the dates provided by law for each fee.

(b)  A person failing to timely pay a fee or tax when due shall pay in addition a penalty of not less than $50 or 25 percent of the amount due, whichever is the greater. The penalty may not exceed $1,000 if the fee or tax is less than 10 days late and may not exceed $5,000 under any circumstances. The commission shall collect the penalty in the same manner as other charges, license fees, and fines are collected under this chapter.

Sec. 2202.402.  WILFUL FAILURE TO REPORT, PAY, OR ACCOUNT FOR FEE OR TAX. (a) A person commits an offense if the person wilfully:

(1)  fails to report, pay, or truthfully account for a fee or tax imposed under this chapter; or

(2)  attempts in any manner to evade or defeat a fee or tax imposed under this chapter.

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

Sec. 2202.403.  CASINO GAMING AND SPORTS WAGERING FRAUD. (a) A person commits an offense if the person knowingly:

(1)  in connection with a casino game or sports wagering--

(A)  alters or misrepresents the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(B)  places, increases, or decreases a bet or determines the course of play after acquiring knowledge, not available to all players, of the outcome of the game or an event that affects the outcome of the game or that is the subject of the bet or aids anyone in acquiring such knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play contingent on that event or outcome;

(C)  places or increases a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including past posting and pressing bets; or

(D)  reduces the amount wagered or cancels the bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including pinching bets;

(2)  claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from a gambling game, with the intent to defraud, without having made a wager contingent on the gambling game;

(3)  claims, collects, or takes an amount greater than the amount won from a gambling game;

(4)  entices or induces another to go to a place where a gambling game is being conducted or operated in violation of this subtitle, with the intent that the other person play or participate in that gambling game; or

(5)  manipulates, with the intent to cheat, a component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of an event that affects the outcome of the game.

(b)  An offense under this section is a felony of the third degree.

Sec. 2202.404.  USE OF PROHIBITED DEVICES. (a) A person commits an offense if the person, at a casino, uses or possesses with the intent to use a device, other than those customarily used in the conduct of gaming to assist in:

(1)  projecting the outcome of the game;

(2)  keeping track of the cards played; or

(3)  analyzing the probability of the occurrence of an event relating to the game.

(b)  An offense under this section is a felony of the third degree.

Sec. 2202.405.  USE OF COUNTERFEIT OR UNAUTHORIZED TOKEN, CHIP, OR COIN. (a) A person commits an offense if the person knowingly uses counterfeit tokens, chips, or coins in a gambling game.

(b)  A person commits an offense if the person, in playing any gambling game designed to receive, be played with, or be operated by lawful tender of the United States of America or by tokens or chips approved by the executive director or by other instrumentality approved by the commission for use in such gambling game knowingly uses a token, chip, coin, or other instrumentality other than tokens, chips, coins, or other instrumentality approved by the commission and designed for the gambling game.

(c)  A person, other than an authorized employee of a license holder acting in furtherance of the person's employment within an establishment, commits an offense if the person knowingly has on the person's body or in the person's possession on or off the premises of a casino a device intended to be used to violate the provisions of this chapter.

(d)  A person, other than an authorized employee of a license holder acting in furtherance of the person's employment within a casino, commits an offense if the person knowingly has on the person's body or in the person's possession on or off the premises of a casino a key or device known to have been designed for the purpose of and suitable for opening, entering, or affecting the operation of a gambling game, a drop box, or an electronic or mechanical device connected to the game or box or for removing money or other contents from the game or box.

(e)  A person commits an offense if the person, with the intent to manufacture slugs for unauthorized use in gaming devices located at a casino, knowingly has on the person's body or in the person's possession paraphernalia for manufacturing slugs. In this subsection, "paraphernalia for manufacturing slugs" means the equipment, products, and materials that are intended for use or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing, or concealing a counterfeit facsimile of the chips or tokens approved by the executive director or a lawful coin of the United States, the use of which is an offense under Subsection (b). The term includes:

(1)  lead or lead alloys;

(2)  molds, forms, or similar equipment capable of producing a likeness of a gaming token or United States coin;

(3)  melting pots or other receptacles;

(4)  torches; and

(5)  tongs, trimming tools, or other similar equipment.

(f)  Possession of more than one of the devices, equipment, products, or materials described in this section permits a rebuttable inference that the possessor intended to use them to cheat. In this subsection, "cheat" has the meaning assigned by Section 2202.406.

(g)  An offense under this section is a felony of the third degree.

Sec. 2202.406.  CHEATING. (a) In this section, "cheat" means to alter the elements of chance, method of selection, or criteria that determine the result of a game or the amount or frequency of payment in a game.

(b)  A person commits an offense if the person knowingly cheats at any gambling game.

(c)  An offense under this section is a state jail felony.

Sec. 2202.407.  POSSESSION OF UNLAWFUL GAMING DEVICE. (a) A person commits an offense if the person possesses any slot machine or other gaming device that the person knows has been manufactured, sold, or distributed in violation of this chapter.

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

Sec. 2202.408.  UNLAWFUL MANUFACTURE, SALE, OR DISTRIBUTION OF GAMING EQUIPMENT. (a) In this section, "cheat" has the meaning assigned by Section 2202.406.

(b)  A person commits an offense if the person manufactures, sells, or distributes a gaming device or associated equipment with the intent that it be used to violate this chapter.

(c)  A person commits an offense if the person marks, alters, or otherwise modifies any associated equipment or gaming device in a manner that:

(1)  affects the result of a wager by determining a win or loss; or

(2)  alters the normal criteria of random selection that affect the operation of a game or determine the outcome of a game.

(d)  A person commits an offense if the person instructs another person in cheating or in the use of a device for cheating at any gambling game authorized to be conducted at a casino, with the knowledge or intent that the information or use may be employed to violate this chapter.

(e)  An offense under this section is a felony of the third degree.

Sec. 2202.409.  UNLAWFUL REPORTING. (a) A person commits an offense if the person, in a license application, in a book or record required to be maintained by this chapter or a rule adopted under this chapter, or in a report required to be submitted by this chapter or a rule adopted under this chapter:

(1)  makes a statement or entry that the person knows to be false or misleading; or

(2)  knowingly fails to maintain or make an entry the person knows is required to be maintained or made.

(b)  A person commits an offense if the person knowingly refuses to produce for inspection by the executive director a book, record, or document required to be maintained or made by this chapter or a rule adopted under this chapter.

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

Sec. 2202.410.  OTHER UNLAWFUL VIOLATIONS. (a) A person commits an offense if the person knowingly violates, attempts to violate, or conspires to violate a provision of this chapter specifying a prohibited act in a manner that is not otherwise specified as an offense under this subchapter.

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

Sec. 2202.411.  UNAUTHORIZED OPERATION, USE, OR POSSESSION OF GAMING DEVICE. (a) A person may not operate, use, or possess a gaming device unless the operation, use, or possession is expressly authorized by this chapter or other law.

(b)  Except for transport to or from a casino and as provided by this chapter, a person commits an offense if the person operates, uses, or possesses a gaming device that is not authorized under this chapter or other law. An offense under this subsection is a felony of the third degree.

(c)  Notwithstanding Subsection (b), a casino license holder, an operator license holder, or a manufacturer license holder may store a gaming device as authorized by the commission for a period not to exceed 180 consecutive days or a longer period approved by the commission, and the commission may possess gaming devices for study and evaluation.

(d)  Nothing in this section shall be construed to prohibit the operation, use, or possession of equipment, machines, technological aids, or other devices allowed in connection with the play of bingo under Chapter 2001.

Sec. 2202.412.  SALE OF GAMBLING GAME TO OR PURCHASE OF GAMBLING GAME BY PERSON YOUNGER THAN 21 YEARS OF AGE. (a) A person licensed under this chapter or an employee of the person commits an offense if the person intentionally or knowingly allows a person younger than 21 years of age to play a gambling game or engage in sports wagering.

(b)  An individual who is younger than 21 years of age commits an offense if the individual:

(1)  plays a gambling game;

(2)  engages in sports wagering; or

(3)  falsely represents the individual to be 21 years of age or older by displaying evidence of age that is false or fraudulent or misrepresents in any way the individual's age in order to play a gambling game or engage in sports wagering.

(c)  It is a defense to prosecution under Subsection (b) that the individual younger than 21 years of age is participating in an inspection or investigation on behalf of the commission or other appropriate governmental entity regarding compliance with this section.

(d)  An offense under Subsection (a) is a Class C misdemeanor.

(e)  An offense under Subsection (b) is a misdemeanor punishable by a fine not to exceed $250.

Sec. 2202.413.  PLAY OF GAMBLING GAME WITH PUBLIC ASSISTANCE FUNDS. (a) A person commits an offense if the person intentionally or knowingly plays a gambling game with public assistance funds issued to the person under:

(1)  Chapter 31, Human Resources Code; or

(2)  Chapter 33, Human Resources Code, including funds on electronic benefit transfer cards administered under Chapter 33, Human Resources Code.

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

Sec. 2202.414.  EFFECT ON OTHER LAWS. A person who is subject to prosecution under an offense under this subchapter and an offense under Chapter 47, Penal Code, may be prosecuted under either or both laws.

SUBCHAPTER J. PROBLEM GAMBLING AND ADDICTION

Sec. 2202.451.  PROBLEM GAMBLING AND ADDICTION GRANT FUND. (a) The problem gambling and addiction grant fund is an account in the general revenue fund.

(b)  Money credited to the fund may be used only for awarding grants under this subchapter. The fund shall be administered in accordance with this subchapter.

(c)  An expenditure from the problem gambling and addiction grant fund shall be made in accordance with the General Appropriations Act.

(d)  Grants from money in the fund may be used only to:

(1)  provide treatment for problem gambling, gambling addiction, alcoholism, drug abuse, and other addictive behaviors; and

(2)  provide funding for research related to the impact of gambling on state residents.

Sec. 2202.452.  GRANT PROGRAM. (a) From funds appropriated for the purpose, the commission shall administer a grant program to provide assistance for the direct treatment of persons diagnosed as suffering from pathological gambling and other addictive behaviors and to provide funding for research regarding the impact of gambling on residents of this state.

(b)  Research grants awarded under this section may include grants for determining the effectiveness of education and prevention efforts on the prevalence of pathological gambling in this state.

(c)  A grant may be made only after open solicitation of proposals and evaluation of proposals against criteria established by commission rule.

(d)  Public and private entities are eligible to apply for and receive grants under this section.

(e)  A grant made in accordance with this section shall be made from funds appropriated to the commission from the problem gambling and addiction grant fund and funds provided to the commission in accordance with Section 2202.453.

Sec. 2202.453.  GIFTS AND DONATIONS. The commission may solicit and accept grants, gifts, contributions, or bequests made for the purpose of funding grants under this subchapter and expend the money for the purpose described by Section 2202.452, for which the money was received.

Sec. 2202.454.  RULES. (a) The commission shall administer this subchapter and adopt rules establishing criteria for qualification to receive grants and other matters considered necessary by the commission for the administration of this subchapter.

(b)  The rules adopted by the commission must require that each recipient of a grant report at least annually to the commission the grantee's measurable achievement of specific outcome goals.

CHAPTER 2203. TRIBAL GAMING AGREEMENTS

Sec. 2203.001.  DUTY OF GOVERNOR. The governor shall execute, on behalf of this state, with a federally recognized Indian tribe with Indian lands in this state a gaming agreement consistent with the provisions in 25 U.S.C. Section 2710(d) and containing the terms set forth in Section 2203.002 not later than the 180th day after the date the governor receives a request from the tribe, accompanied by or in the form of a duly enacted resolution of the tribe's governing body, to enter into the gaming agreement.

Sec. 2203.002.  MODEL TRIBAL GAMING AGREEMENT. (a) A gaming agreement executed under Section 2203.001 must be in the form and contain the provisions as follows:

GAMING AGREEMENT GOVERNING GAMING OPERATIONS Between the [Name of Tribe] and the STATE OF TEXAS

This agreement is made and entered into by and between the [Name of Tribe], a federally recognized Indian Tribe ("Tribe"), and the State of Texas ("State"), with respect to gaming on the Tribe's Indian lands (as defined by Chapter 2201, Texas Occupations Code).

This agreement governs gambling on Indian lands held in trust by the United States on January 1, 1998, for the Tribe.

Pursuant to express provisions of the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (Pub. L. No. 100-89) addressing jurisdiction, the Tribe may engage in any gaming activities on Indian lands that another person may be authorized to engage in within Texas under Subtitle E, Title 13, Occupations Code.

The Tribe shall regulate the gaming activities authorized under this agreement on the Tribe's Indian lands.

The Tribe shall adopt rules and procedures substantially similar to the requirements of Subtitle E, Title 13, Occupations Code, except that any regulatory oversight established under Subtitle E for gaming conducted under a license shall be exercised by the Tribe for gaming conducted under this agreement. The Tribe may adopt the rules and procedures by reference to any provisions of Subtitle E, Title 13, Occupations Code.

(b)  A gaming agreement under Subsection (a) between this state and a federally recognized Indian tribe that is not subject to the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (Pub. L. No. 100-89) may not include the provision related to that Act.

Sec. 2203.003.  NEGOTIATION FOR DIFFERENT TRIBAL GAMING AGREEMENT TERMS. (a) This chapter does not limit the ability of a federally recognized Indian tribe to request that a gaming agreement be negotiated with this state on terms that are different from those set forth in the gaming agreement under Section 2203.002, or the ability of this state to engage in negotiations and to reach agreement under any applicable federal law.

(b)  In offering to enter into a gaming agreement with Indian tribes in this state under Section 2203.002, and excluding assessments, authorized under the Indian Gaming Regulatory Act (18 U.S.C. Sections 1166-1168 and 25 U.S.C. Section 2701 et seq.), by this state of the amounts necessary to defray state costs of regulating activities as provided under the gaming agreement, nothing in this chapter may be construed to mean that:

(1)  this state is imposing any tax, fee, charge, or other assessment on an Indian tribe or on any other person or entity authorized by an Indian tribe as a condition to engaging in a Class III activity as defined in the Indian Gaming Regulatory Act (18 U.S.C. Sections 1166-1168 and 25 U.S.C. Section 2701 et seq.); or

(2)  this state is refusing to enter into gaming agreement negotiations based on the lack of authority of this state or a political subdivision of this state to impose the tax, fee, charge, or other assessment.

(c)  If any federally recognized Indian tribe with jurisdiction over Indian lands in this state requests that the governor enter into negotiations for a gaming agreement under federal law applicable to the Indian tribe, including the Indian Gaming Regulatory Act (18 U.S.C. Sections 1166-1168 and 25 U.S.C. Section 2701 et seq.), on terms different than those prescribed in the gaming agreement set forth in Section 2203.002, the governor shall enter into those negotiations under the federal law applicable to the tribe and without preconditions and is authorized to reach agreement and execute the agreement on behalf of this state.

Sec. 2203.004.  IMPLEMENTATION OF GAMING AGREEMENT. The governor shall execute any documents necessary to implement a gaming agreement authorized under this chapter.

Sec. 2203.005.  INCORPORATION INTO STATE LAW. The model gaming agreement set out in Section 2203.002 is hereby incorporated into state law, and the operation of gaming authorized under the agreement is expressly authorized as a matter of state law for any Indian tribe entering into the gaming agreement in accordance with this chapter.

Sec. 2203.006.  REGULATORY MONEY RECEIVED UNDER GAMING AGREEMENT. All money received by the commission under a gaming agreement for regulatory costs incurred relative to tribal gaming operations may be used only to defray expenses of the commission incurred in the oversight, compliance with, and enforcement of gaming operations conducted pursuant to a gaming agreement.

Sec. 2203.007.  INJUNCTION; CIVIL PENALTY. (a) If the commission, the appropriate governing body for an Indian tribe, or the attorney general has reason to believe that this chapter has been or is about to be violated, the attorney general may petition a court for appropriate injunctive relief to restrain the violation. Filing of the petition does not waive applicable sovereign immunity.

(b)  Venue for an action by this state seeking injunctive relief is in a district court in Travis County.

(c)  If the court finds that this chapter has been knowingly violated, the court shall order all proceeds from any illegal casino gaming and sports wagering to be forfeited to the appropriate governing body as a civil penalty.

(d)  The remedies provided by this section are not exclusive. The commission may suspend or revoke a license, impose an administrative penalty, or seek injunctive or civil penalties or both, depending on the severity of the violation.

SECTION 2.  Section 2028.2041, Occupations Code, is amended to read as follows:

Sec. 2028.2041.  ALLOCATION OF CERTAIN FUNDS. (a) In each state fiscal biennium, the comptroller shall deposit the amounts allocated under Section 151.801(c-3), Tax Code, into the escrow account established under Section 2028.204(b), until the comptroller determines the amount deposited into the account in that fiscal biennium, excluding amounts deposited to the account pursuant to Section 2202.252, equals the greater of:

(1)  the amount appropriated to the commission for the purposes of Section 2028.204 for that fiscal biennium; or

(2)  $50 million.

(b)  Once the comptroller determines the greater of the amount described by Subsection (a)(1) or (2) has been deposited during a state fiscal biennium into the escrow account established under Section 2028.204(b), excluding amounts deposited to the account pursuant to Section 2202.252, for the remainder of that fiscal biennium the comptroller shall deposit the amounts allocated under Section 151.801(c-3), Tax Code, into the general revenue fund.

(c)  The balance of the escrow account established under Section 2028.204(b) shall not exceed $50 million, excluding amounts deposited to the account pursuant to Section 2202.252.

SECTION 3.  Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12.  WHO ARE PEACE OFFICERS. The following are peace officers:

(1)  sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2)  constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3)  marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4)  rangers, officers, and members of the reserve officer corps commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5)  investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

(6)  law enforcement agents of the Texas Alcoholic Beverage Commission;

(7)  each member of an arson investigating unit commissioned by a city, a county, or the state;

(8)  officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;

(9)  officers commissioned by the General Services Commission;

(10)  law enforcement officers commissioned by the Parks and Wildlife Commission;

(11)  officers commissioned under Chapter 23, Transportation Code;

(12)  municipal park and recreational patrolmen and security officers;

(13)  security officers and investigators commissioned as peace officers by the comptroller;

(14)  officers commissioned by a water control and improvement district under Section 49.216, Water Code;

(15)  officers commissioned by a board of trustees under Chapter 54, Transportation Code;

(16)  investigators commissioned by the Texas Medical Board;

(17)  officers commissioned by:

(A)  the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, the Bexar County Hospital District, or the El Paso County Hospital District under Section 281.057, Health and Safety Code;

(B)  the board of directors of the Ector County Hospital District under Section 1024.117, Special District Local Laws Code;

(C)  the board of directors of the Midland County Hospital District of Midland County, Texas, under Section 1061.121, Special District Local Laws Code; and

(D)  the board of hospital managers of the Lubbock County Hospital District of Lubbock County, Texas, under Section 1053.113, Special District Local Laws Code;

(18)  county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;

(19)  investigators employed by the Texas Racing Commission;

(20)  officers commissioned under Chapter 554, Occupations Code;

(21)  officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;

(22)  investigators commissioned by the attorney general under Section 402.009, Government Code;

(23)  security officers and investigators commissioned as peace officers under Chapter 466, Government Code;

(24)  officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;

(25)  officers commissioned by the state fire marshal under Chapter 417, Government Code;

(26)  an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;

(27)  apprehension specialists and inspectors general commissioned by the Texas Juvenile Justice Department as officers under Sections 242.102 and 243.052, Human Resources Code;

(28)  officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(29)  investigators commissioned by the Texas Commission on Law Enforcement under Section 1701.160, Occupations Code;

(30)  commission investigators commissioned by the Texas Private Security Board under Section 1702.061, Occupations Code;

(31)  the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code;

(32)  officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section;

(33)  investigators commissioned by the Texas Juvenile Justice Department as officers under Section 221.011, Human Resources Code; [~~and~~]

(34)  the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code; and

(35)  investigators, security officers, and enforcement officers commissioned by the Texas Gaming Commission under Chapter 2201, Occupations Code.

SECTION 4.  Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1085 to read as follows:

Sec. 411.1085.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS GAMING COMMISSION. (a) The Texas Gaming Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who, under Subtitle E, Title 13, Occupations Code, is:

(1)  a casino employee or an applicant for an occupational license;

(2)  a person required to hold a license or be named in a license application under that subtitle;

(3)  a person who manufactures or distributes casino equipment or supplies or a representative of a person who manufactures or distributes casino equipment or supplies offered to the casino;

(4)  a person who has submitted a written bid or proposal to the commission in connection with the procurement of goods or services by the commission, if the amount of the bid or proposal exceeds $500;

(5)  a person who proposes to enter into or who has a contract with the commission to supply goods or services to the commission;

(6)  if a person described in Subdivisions (3) through (5) is not an individual, each individual who:

(A)  is an officer or director of the person;

(B)  holds more than five percent of the stock in the person;

(C)  holds an equitable interest greater than five percent in the person;

(D)  shares or will share in the profits, other than stock dividends, of the person;

(E)  participates in managing the affairs of the person; or

(F)  is an employee of the person who:

(i)  enters or will enter a casino in this state to perform a business function; or

(ii)  is or will be in close proximity to money from casino gaming;

(7)  an employee or prospective employee, including the executive director or a prospective executive director, of the commission; or

(8)  a person described under Subdivisions (1)-(7) whose license is renewed under that subtitle.

(b)  Criminal history record information obtained by the Texas Gaming Commission under Subsection (a) may not be released or disclosed to any person except on court order or as provided by Subsection (c).

(c)  The Texas Gaming Commission is not prohibited from disclosing to the person who is the subject of the criminal history record information the dates and places of arrests, offenses, and dispositions contained in the criminal history record information.

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

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

(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; or

(7)  consisted entirely of participation in an authorized gambling game or sports wagering authorized under an appropriate license issued under Subtitle E, Title 13, Occupations Code.

SECTION 6.  Section 47.03, Penal Code, is amended by adding Subsection (c) to read as follows:

(c)  It is a defense to prosecution under this section that the actor reasonably believed that the conduct was permitted under Subtitle E, Title 13, Occupations Code.

SECTION 7.  Section 47.04, Penal Code, is amended by adding Subsection (c) to read as follows:

(c)  It is a defense to prosecution under this section that the actor reasonably believed that the conduct was permitted under Subtitle E, Title 13, Occupations Code.

SECTION 8.  Section 47.05(b), Penal Code, is amended to read as follows:

(b)  It is an exception to the application of Subsection (a) that the information communicated is intended for use in placing a lawful wager under Subtitle E, Title 13, Occupations Code, or Chapter 2027, Occupations Code, and is not communicated in violation of Section 2033.013, Occupations Code.

SECTION 9.  Section 47.06(f), Penal Code, is amended to read as follows:

(f)  It is a defense to prosecution under Subsection (a) or (c) that the person owned, manufactured, transferred, or possessed the gambling device, equipment, or paraphernalia for the sole purpose of shipping it:

(1)  to a person authorized under an appropriate license issued under Subtitle E, Title 13, Occupations Code; or

(2)  to another jurisdiction where the possession or use of the device, equipment, or paraphernalia was legal.

SECTION 10.  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)  Subtitle A-1, Title 13, Occupations Code (Texas Racing Act); [~~or~~]

(E)  Chapter 280, Finance Code; or

(F)  Subtitle E, Title 13, Occupations 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 11.  (a) Funds in the Texas casino gaming fund may be appropriated only to the Texas Gaming Commission for the operation of the commission and the administration of Subtitle E, Title 13, Occupations Code, as added by this Act, for the biennium ending August 31, 2025.

(b)  Not later than February 1, 2024, the initial members of the Texas Gaming Commission shall be appointed in accordance with Chapter 2201, Occupations Code, as added by this Act. In making the initial appointments, the governor shall designate one member to a term expiring February 1, 2025, two members to terms expiring February 1, 2027, and two members to terms expiring February 1, 2029.

SECTION 12.  (a) The Texas Gaming Commission Legislative Oversight Committee is created to facilitate the creation of the Texas Gaming Commission and the assignment of powers, duties, functions, programs, and activities of the commission as provided by this Act.

(b)  The committee is composed of seven members as follows:

(1)  two members of the senate, appointed by the lieutenant governor not later than December 1, 2023;

(2)  two members of the house of representatives, appointed by the speaker of the house of representatives not later than December 1, 2023; and

(3)  three members of the public, appointed by the governor not later than December 1, 2023.

(c)  Once the members of the Texas Gaming Commission have been appointed and have selected an executive director, the executive director of the Texas Gaming Commission shall serve as an ex officio member of the committee.

(d)  A member of the committee serves at the pleasure of the appointing official.

(e)  The lieutenant governor and the speaker of the house of representatives shall alternate designating a presiding officer from among their respective appointments. The speaker of the house of representatives shall make the first designation.

(f)  A member of the committee may not receive compensation for serving on the committee but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

(g)  The committee shall:

(1)  facilitate the assignment of powers, duties, functions, programs, and activities of the Texas Gaming Commission as provided by this Act;

(2)  adopt an initial training program to meet the requirements of Section 2201.058, Occupations Code, as added by this Act, to train the initial appointees of the Texas Gaming Commission;

(3)  with assistance from the Texas Gaming Commission, advise the executive director and members of the Texas Gaming Commission concerning the powers, duties, functions, programs, and activities established under this Act and the funds and obligations that are related to the powers, duties, functions, programs, or activities;

(4)  meet at the call of the presiding officer;

(5)  research, take public testimony, and issue reports on other appropriate issues or specific issues requested by the lieutenant governor, speaker of the house of representatives, or governor; and

(6)  review specific recommendations for legislation proposed by the Texas Gaming Commission or the other agencies.

(h)  The committee may request reports and other information from the Texas Gaming Commission, other state agencies, and the attorney general relating to casino gaming and sports wagering in this state and other appropriate issues.

(i)  The committee shall use existing staff of the senate, the house of representatives, and the Texas Legislative Council to assist the committee in performing its duties under this section.

(j)  Chapter 551, Government Code, applies to the committee.

(k)  The committee shall report to the governor, lieutenant governor, and speaker of the house of representatives not later than November 15 of each even-numbered year. The report must include:

(1)  identification of significant issues within casino gaming and sports wagering regulation, with recommendations for action;

(2)  an analysis of the effectiveness and efficiency of casino gaming and sports wagering regulation, with recommendations for any necessary research; and

(3)  recommendations for legislative action.

SECTION 13.  (a) The assignment of powers, duties, functions, programs, and activities of the Texas Gaming Commission must be accomplished in accordance with a schedule included in a work plan developed by the executive director and members of the Texas Gaming Commission and submitted to the governor and the Legislative Budget Board not later than September 1, 2024. The executive director and commission members shall provide to the governor and the Legislative Budget Board work plan status reports and updates on at least a quarterly basis following submission of the initial work plan. The work plan must be made available to the public.

(b)  Not later than June 1, 2024, the Texas Gaming Commission shall hold a public hearing and accept public comment regarding the work plan required to be developed by the executive director and members of the Texas Gaming Commission under this section.

(c)  In developing the work plan, the executive director and members of the Texas Gaming Commission shall hold public hearings in various geographic areas in this state before submitting the plan to the governor and the Legislative Budget Board as required by this section.

(d)  The Texas Gaming Commission shall implement the powers, duties, functions, programs, and activities assigned to the commission under this Act in accordance with a work plan designed by the commission to ensure that the implementation of gaming regulation under this Act is accomplished in a careful and deliberative manner.

(e)  A work plan designed by the commission under this section must include the following phases:

(1)  a planning phase, during which the commission will focus on and stabilize the organization of the agency's powers, duties, functions, programs, and activities, and which must include:

(A)  initiation of recommendations made by the Texas Gaming Commission Legislative Oversight Committee;

(B)  creation of interagency and intra-agency steering committees;

(C)  development of global visions, goals, and organizational strategies; and

(D)  development of communications and risk management plans;

(2)  an integration phase, during which the commission will identify opportunities and problems and design customized solutions for those problems, and which must include:

(A)  identification of key issues related to costs or legal requirements for other commission activities;

(B)  planning for daily operations; and

(C)  validation of fiscal and program synergies;

(3)  an optimization phase, during which the commission will complete and expand on the initial transitions, and which must include:

(A)  optimization of initial implementation initiatives;

(B)  use of enterprise teaming operations;

(C)  building infrastructures to support and facilitate changes in gaming regulation and oversight; and

(D)  identification and use of beneficial assets management and facilities approaches; and

(4)  a transformation phase, during which the commission will continue implementing initial and additional changes in gaming regulation and oversight, and which must include implementation of changes in agency management activities.

SECTION 14.  As soon as practicable after the constitutional amendment to authorize casino gaming and sports wagering in this state proposed by the 88th Legislature, Regular Session, 2023, is approved by the voters and becomes effective, the Texas Gaming Commission shall adopt the rules necessary to implement that gaming in accordance with Chapter 2202, Occupations Code, as added by this Act, and in anticipation of receiving license applications not later than September 1, 2025.

SECTION 15.  This Act takes effect on the date the amendment proposed by the 88th Legislature, Regular Session, 2023, to foster economic development and job growth, provide tax relief and funding for education and public safety programs, and reform and support the horse racing industry by authorizing casino gaming at destination resorts, authorizing sports wagering, creating the Texas Gaming Commission to regulate casino gaming and sports wagering, requiring a license to conduct casino gaming, and requiring the imposition of a gaming tax, sports wagering tax, and license application fees is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.