

By: Menendez

H.B. No. 3186

A BILL TO BE ENTITLED

AN ACT

relating to the authorization and regulation of poker gaming and the duties of the Texas Lottery Commission; providing civil and criminal penalties.

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

SECTION 1. Subtitle A, Title 13, Occupations Code, is amended by adding Chapter 2004 to read as follows:

CHAPTER 2004. POKER GAMING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2004.001. SHORT TITLE; APPLICABILITY. (a) This chapter may be cited as the Poker Gaming Act of 2007.

(b) This chapter does not apply to the conduct of bingo, charitable raffles, the state lottery, or video poker.

Sec. 2004.002. PUBLIC POLICY. (a) All poker gaming conducted in this state and authorized by law shall be regulated and licensed under this chapter unless state or federal law specifically provides otherwise.

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

(1) poker is a game of skill and not a lottery prohibited by the Texas Constitution;

(2) unregulated poker gaming conducted by unlicensed operators in public establishments is inimical to the public health, safety, welfare, and good order. A person in this state may

1 not offer and has no right to offer the game of poker for profit
2 except as expressly permitted by the laws of this state;

3 (3) the development of regulated poker gaming in this
4 state will benefit the general welfare of the people of this state
5 by enhancing investment, development, and tourism in this state,
6 resulting in new jobs and additional revenues to this state;

7 (4) the conduct of regulated poker gaming by licensed
8 operators in authorized establishments will not harm the people of
9 this state;

10 (5) the regulation of poker gaming in this state is
11 important to ensure that poker gaming:

12 (A) is conducted honestly and competitively; and
13 (B) is free from criminal and other corruptive
14 elements;

15 (6) public confidence and trust can be maintained only
16 by strict regulation of all persons, locations, practices,
17 associations, and activities related to the conduct of poker gaming
18 and the poker gaming service industry;

19 (7) persons owning any interest in an operator
20 licensed to conduct poker gaming and in distributing materials and
21 specific equipment relating to poker gaming must be licensed and
22 controlled to protect the public health, safety, morals, good
23 order, and general welfare of the people of this state;

24 (8) certain operators and employees of establishments
25 authorized to conduct poker gaming and certain manufacturers and
26 distributors in the poker gaming service industry must be
27 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

(9) it is the intent of this chapter, where possible, to use the resources, goods, labor, and services of the people of this state in the operation of poker gaming-related amenities to the extent allowable by law.

Sec. 2004.003. DEFINITIONS. In this chapter:

(1) "Alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

(2) "Badge" means a form of identification issued by the commission to identify a license holder.

(3) "Bet" means an agreement to win or lose chips or tokens, or an electronic facsimile of either, in a game of poker.

(4) "Bonus program" means a local promotion bonus program or a statewide bad beat bonus program.

(5) "Cage manager" means an individual who creates and maintains player accounts, provides cash-in and cash-out of chips or player accounts, and creates and maintains the amount of gross receipts tax due and payable to the comptroller by a licensed operator on each day's gross receipts. The cage manager may be assisted by an electronic method to perform any of these duties.

(6) "Charitable operator" means a person who holds a charitable operator's license issued by the commission to conduct a charitable poker tournament for a licensed nonprofit organization.

(7) "Charitable poker tournament" means a poker tournament conducted by a charitable operator or commercial operator to benefit a licensed nonprofit organization.

1 (8) "Collection fee" means the amount charged on the
2 communal pot for each poker hand played in accordance with Section
3 2004.462.

4 (9) "Commercial operator" means a person who holds a
5 commercial operator's license issued by the commission under
6 Section 2004.103.

7 (10) "Commission" means the Texas Lottery Commission.

8 (11) "Communal pot" means the total amount of wagers
9 collectively made during one hand of poker.

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

15 (13) "Creditor interest" means a right or claim of any
16 character against a person for the payment of money borrowed,
17 whether secured or unsecured, matured or unmatured, liquidated or
18 absolute, or fixed or contingent, and includes an obligation based
19 on the person's profits or receipts.

20 (14) "Dealer" means an individual who deals cards to
21 players at each poker gaming table on the premises of a licensed
22 operator.

23 (15) "Director" means the director of poker gaming
24 operations of the commission.

25 (16) "Electronic poker table" means a poker gaming
26 table with components that provides up to 10 player positions and
27 allows players to play against other players in the same poker game

1 using electronic cards and chips.

2 (17) "Equity interest" means a proprietary interest,
3 right, or claim in a company that allows the holder either to vote
4 with respect to matters of organizational governance or to
5 participate in the profits and residual assets of the company,
6 including common and preferred stock in a corporation, a general or
7 limited partnership interest in a partnership, a similar interest
8 in any other form of business organization, or a warrant, right, or
9 similar interest convertible into, or to subscribe for, a
10 proprietary right or claim, with or without the payment of
11 additional consideration.

12 (18) "Executive director" means the executive
13 director of the commission.

14 (19) "Fidelity bond" means insurance against a
15 licensed operator's financial loss resulting from theft or
16 embezzlement by an employee.

17 (20) "Gross receipts" means the total amount
18 accumulated from:

19 (A) the collection fees charged from the communal
20 pot from each poker hand; and

21 (B) the promotion bonus fees charged from the
22 communal pot from each poker hand played.

23 (21) "Licensed nonprofit organization" means a
24 nonprofit organization that holds a license issued by the
25 commission authorizing the organization to benefit from charitable
26 poker tournaments conducted on its behalf.

27 (22) "Licensed operator" means a charitable operator

1 or a commercial operator.

2 (23) "Manufacturer" means:

3 (A) a person who assembles from raw materials or
4 subparts a completed piece of poker gaming equipment or supplies
5 for use in poker gaming in this state; or

6 (B) a person who converts, modifies, adds to, or
7 removes parts from any poker gaming equipment, item, or assembly to
8 further its promotion or sale for or use in poker gaming in this
9 state.

10 (24) "Net proceeds" means, in relation to the gross
11 receipts from a charitable poker tournament, the amount remaining
12 after deducting the reasonable amounts necessarily and actually
13 expended by a licensed operator to conduct the charitable poker
14 tournament.

15 (25) "Nonprofit organization" means an unincorporated
16 association, a corporation that is incorporated or holds a
17 certificate of authority under the Texas Non-Profit Corporation Act
18 (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), or a
19 nonprofit corporation formed under the Texas Nonprofit Corporation
20 Law, as described by Section 1.008, Business Organizations Code,
21 that:

22 (A) does not distribute any of its income to its
23 members, officers, or governing body, other than as reasonable
24 compensation for services; and

25 (B) has tax-exempt status under Section
26 501(c)(3), Internal Revenue Code of 1986.

27 (26) "Pari-mutuel license holder" means a person

1 licensed to conduct wagering on a greyhound race or a horse race
2 under the Texas Racing Act (Article 179e, Vernon's Texas Civil
3 Statutes).

4 (27) "Player" means a patron who participates in poker
5 gaming on the premises of a licensed operator.

6 (28) "Poker" or "poker game" means a card game in which
7 players place a bet based on the highest or lowest ranking hand of
8 cards held or combination of highest and lowest cards held. For
9 purposes of this chapter, the term includes the game known as Texas
10 Hold'em or any variation or combination of Texas Hold'em, but does
11 not include blackjack, hearts, pinochle, rummy, Internet poker,
12 video poker, or Asian card games such as Pai Gow.

13 (29) "Poker card deck" means a set of 52 cards with 13
14 values and with each card value represented once in each of four
15 suits: spades, hearts, diamonds, and clubs. The term includes
16 actual cards or an electronic facsimile of cards.

17 (30) "Poker gaming" means the conduct of poker games.

18 (31) "Poker gaming equipment" means any equipment or
19 mechanical, electromechanical, or electronic contrivance,
20 component, machine, or device, expendable supply, or other
21 paraphernalia used in conjunction with or to facilitate poker
22 gaming, including a computerized system or software for monitoring
23 poker gaming revenue or a device for weighing or counting money.
24 The term includes playing cards, gaming chips or tokens, or a card
25 shuffling device, or an electronic version of any of those items.

26 (32) "Premises" means the area subject to the direct
27 control of and actual use by a licensed operator to conduct poker

1 gaming. The term includes a location or place.

2 (33) "Principal manager" means a person who, in
3 accordance with commission rules, holds or exercises managerial,
4 supervisory, or policy-making authority over the management or
5 operation of a poker gaming activity that, in the commission's
6 judgment, warrants employee licensing as a principal manager for
7 the protection of the public interest. The term includes a key
8 executive of a holder of a license under this chapter that is a
9 company and each person controlling the holder that is a company.

10 (34) "Promotion bonus fee" means the amount charged
11 from the communal pot for bonus programs from each poker hand played
12 in accordance with Section 2004.461.

13 (35) "Wager" means a bet.

14 [Sections 2004.004-2004.050 reserved for expansion]

15 SUBCHAPTER B. COMMISSION POWERS AND DUTIES

16 Sec. 2004.051. CONTROL AND SUPERVISION OF POKER GAMING;
17 POKER DIVISION. (a) The commission shall administer this chapter.

18 (b) The commission has broad authority and shall exercise
19 strict control and close supervision over all poker gaming
20 conducted in this state to ensure that poker gaming is fairly
21 conducted.

22 (c) The commission shall execute its authority through a
23 poker gaming division established by the commission to administer
24 this chapter.

25 Sec. 2004.052. DIRECTOR OF POKER GAMING OPERATIONS. (a)
26 The commission shall employ a director of poker gaming operations.

27 (b) The director of poker gaming operations shall

1 administer the poker gaming division under the direction of the
2 commission.

3 Sec. 2004.053. OFFICERS AND INVESTIGATORS. The commission
4 may employ officers or investigators the commission considers
5 necessary to administer this chapter.

6 Sec. 2004.054. RULEMAKING AUTHORITY. The commission shall
7 adopt rules as necessary to enforce and administer this chapter.

8 Sec. 2004.055. APPROVAL OF POKER GAMING EQUIPMENT. (a) The
9 commission by rule shall provide procedures for the approval of
10 poker gaming equipment for use in poker gaming in this state.

11 (b) The commission may approve an electronic poker table
12 only if the table is:

13 (1) certified by an independent gaming equipment
14 testing lab recognized by the commission as meeting the standards
15 prescribed by Section 2004.454;

16 (2) commercially available; and

17 (3) in use in other commercial gaming operations.

18 (c) The holder of a license issued under this chapter may
19 not use, sell, or distribute poker gaming equipment that has not
20 been approved by the commission.

21 Sec. 2004.056. PUBLIC INFORMATION. (a) The commission
22 shall provide to any person on request a printed copy of this
23 chapter and the rules applicable to the enforcement of this
24 chapter.

25 (b) The commission may charge a reasonable fee for a copy
26 provided under this section.

27 Sec. 2004.057. ADVISORY OPINIONS. (a) A person may request

1 from the commission an advisory opinion regarding compliance with
2 this chapter and commission rules.

3 (b) The commission shall respond to a request under
4 Subsection (a) not later than the 60th day after the date a request
5 is received, unless the commission determines that the request does
6 not contain sufficient facts to provide an answer on which the
7 requestor may rely. In that event, the commission shall request
8 additional information from the requestor not later than the 10th
9 business day after the date the request is received. If the
10 commission requests additional information, the commission shall
11 respond to the request not later than the 60th day after the date
12 additional information is received pursuant to the request for
13 additional information.

14 (c) A person who requests an advisory opinion under
15 Subsection (a) may act in reliance on the opinion in the conduct of
16 any activity under any license issued under this chapter if the
17 conduct is substantially consistent with the opinion and the facts
18 stated in the request.

19 (d) An advisory opinion issued under this section is not a
20 rule under Subchapter B, Chapter 2001, Government Code, and the
21 rulemaking requirements of that subchapter do not apply to a
22 request for an advisory opinion or any advisory opinion issued by
23 the commission.

24 (e) Nothing in this section precludes the commission from
25 requesting an attorney general's opinion under Section 402.042,
26 Government Code. In the event the commission requests an attorney
27 general's opinion on a matter that is the subject of an advisory

1 opinion request under this section, the deadlines established under
2 Subsection (b) are tolled until the 30th day following the date of
3 issuance of the attorney general's opinion.

4 [Sections 2004.058-2004.100 reserved for expansion]

5 SUBCHAPTER C. LICENSE TO CONDUCT POKER GAMING

6 Sec. 2004.101. OPERATOR'S LICENSE. (a) A person may not
7 conduct poker gaming in the state unless the person holds a
8 charitable operator's license or a commercial operator's license
9 issued by the commission. Poker gaming conducted by a commercial
10 operator, including a charitable poker tournament conducted by the
11 operator to benefit a licensed nonprofit organization, may be
12 conducted only on premises operating in accordance with the
13 operator's license. Poker gaming conducted by a charitable
14 operator may be conducted only at a location specified in a permit
15 authorizing the conduct of a charitable poker tournament.

16 (b) Subsection (a) does not prohibit a person from playing a
17 poker game authorized by other state law.

18 (c) A person may not own an equity interest in a location in
19 this state on which poker gaming is conducted by a commercial
20 operator and for which a commercial operator's license is not in
21 effect.

22 (d) A separate commercial operator's license must be
23 obtained for each location at which poker gaming is conducted by a
24 commercial operator.

25 (e) Except as otherwise provided by this chapter or
26 commission rule, a commercial operator may not operate more than
27 four poker gaming tables at a single location licensed by the

1 commission. The commission by rule shall determine the number of
2 poker tables a commercial operator that is a pari-mutuel license
3 holder may operate.

4 (f) A separate permit must be obtained for each charitable
5 poker tournament conducted by a licensed operator.

6 Sec. 2004.102. COMMERCIAL OPERATOR'S LICENSE APPLICATION.

7 (a) In accordance with commission rules, an applicant for a
8 commercial operator's license shall file with the commission an
9 application that contains the information identified in
10 Subsections (b) and (c), and any additional information the
11 commission requires to determine the suitability and eligibility of
12 the applicant.

13 (b) The application must include:

14 (1) the name and address of the applicant;

15 (2) the names and addresses of the officers of a
16 company applicant;

17 (3) the name and address of the person that owns the
18 premises where the applicant intends to conduct poker gaming under
19 the license sought;

20 (4) the address of the premises where the applicant
21 intends to conduct poker gaming under the license sought;

22 (5) the name and address of the lessor of the building
23 in which the premises are located, if the applicant leases or will
24 lease the premises at which the applicant intends to conduct poker
25 gaming;

26 (6) for a pari-mutuel license holder applicant, the
27 number of poker tables requested for the holder's racetrack,

1 including the number of tables that are electronic poker tables;
2 and

3 (7) a financial statement certified by a certified
4 public accountant demonstrating that the applicant holds gross
5 capital assets, including land and buildings, of at least \$1
6 million.

7 (c) An applicant must attach to the application a copy of:

8 (1) each license or permit the applicant holds issued
9 by the Texas Alcoholic Beverage Commission authorizing the
10 applicant to serve alcoholic beverages on the premises; or

11 (2) the person's pari-mutuel license.

12 Sec. 2004.103. MANDATORY ISSUANCE OF COMMERCIAL OPERATOR'S
13 LICENSE. (a) The commission shall issue a commercial operator's
14 license to an applicant that:

15 (1) holds:

16 (A) an alcoholic beverage license or permit
17 issued by the Texas Alcoholic Beverage Commission authorizing the
18 applicant to serve alcoholic beverages on the premises; or

19 (B) a pari-mutuel license issued by the
20 Texas Racing Commission authorizing the applicant to conduct
21 wagering on a greyhound race or a horse race;

22 (2) files the application in accordance with this
23 chapter;

24 (3) signs the application;

25 (4) pays the required application fee; and

26 (5) meets any additional requirements prescribed by
27 the commission.

1 (b) The commission shall revoke a commercial operator's
2 license if the operator's alcoholic beverage license or permit or
3 pari-mutuel license, as applicable, expires or is revoked. The
4 Texas Alcoholic Beverage Commission shall notify the commission of
5 any expiration or revocation of an alcoholic beverage license or
6 permit held by a licensed operator. The Texas Racing Commission
7 shall notify the commission of any expiration or revocation of a
8 pari-mutuel license held by a licensed operator.

9 (c) If video surveillance is required under Section
10 2004.468, the commission may not issue a commercial operator's
11 license to an applicant unless the applicant provides the video
12 surveillance equipment required by that section.

13 (d) The commission may adopt rules providing for a person's
14 continued suitability to hold a commercial operator's license.

15 (e) The opportunity to hold a commercial operator's license
16 is a revocable privilege and not a right or property under the
17 United States Constitution or the Texas Constitution. An applicant
18 for or holder of a commercial operator's license does not have a
19 vested interest or right in a license granted under this chapter.

20 Sec. 2004.104. CHARITABLE OPERATOR'S LICENSE. (a) In
21 accordance with commission rules, an applicant for a charitable
22 operator's license shall file with the commission an application
23 that contains the information identified in Subsection (b) and any
24 additional information the commission requires to determine the
25 suitability and eligibility of the applicant.

26 (b) The application must include:

27 (1) the name and address of the applicant;

1 (2) the names and addresses of the officers of an
2 applicant;

3 (3) the name and address of the person that owns the
4 premises where the applicant intends to conduct charitable poker
5 gaming under the license sought;

6 (4) the address of the premises where the applicant
7 intends to conduct charitable poker gaming under the license
8 sought; and

9 (5) the name and address of the lessor of the building
10 in which the premises are located, if the applicant leases or will
11 lease the premises at which the applicant intends to conduct
12 charitable poker gaming.

13 Sec. 2004.105. DETERMINATION OF SUITABILITY TO HOLD
14 CHARITABLE OPERATOR'S LICENSE. (a) The commission shall determine
15 the suitability of an applicant for or holder of a charitable
16 operator's license based on suitability criteria prescribed by the
17 commission. The commission shall adopt the rules and standards
18 necessary to ensure that an applicant for a charitable operator's
19 license or a charitable operator uses the revenue from a charitable
20 poker tournament for bona fide charitable purposes.

21 (b) The burden of proving suitability to receive or hold a
22 charitable operator's license is on the applicant or license
23 holder.

24 (c) The commission shall issue a charitable operator's
25 license to an eligible applicant if the commission determines that
26 the applicant is suitable under the commission's criteria.

27 (d) The commission may adopt rules providing for a person's

1 continued suitability to hold a charitable operator's license and
2 providing for the imposition of sanctions and penalties against a
3 person who does not comply with this chapter or rules adopted under
4 this chapter.

5 (e) The opportunity to hold a charitable operator's license
6 is a revocable privilege and not a right or property under the
7 United States Constitution or the Texas Constitution. An applicant
8 for or holder of a charitable operator's license does not have a
9 vested interest or right in a license granted under this chapter.

10 Sec. 2004.106. NONTRANSFERABILITY. A commercial
11 operator's license applies only to the specific premises location
12 identified in the license and is not transferable to another person
13 or location.

14 Sec. 2004.107. REGISTRATION OF INTEREST IN OPERATOR. (a)
15 Except as provided by Subsection (b), a person who directly or
16 indirectly owns an equity interest or creditor interest in an
17 applicant for or holder of a commercial operator's license shall
18 register and qualify with the commission under commission rules and
19 shall provide information the commission finds necessary to
20 determine the suitability and eligibility of the person to retain
21 the interest.

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

24 (1) an employee of a licensed operator who is required
25 to apply for an employee's license under Subchapter D;

26 (2) an institutional investor; or

27 (3) any other group or class of persons that the

1 commission by rule exempts from registration or qualification.

2 (c) The commission shall adopt rules to implement this
3 section, including rules establishing procedures for registration
4 application, qualification, and renewal. A registration filed
5 under this section must be accompanied by the required application
6 fee.

7 [Sections 2004.108-2004.130 reserved for expansion]

8 SUBCHAPTER C-1. NONPROFIT ORGANIZATION LICENSE; CHARITABLE POKER

9 TOURNAMENT PERMIT

10 Sec. 2004.131. LICENSE REQUIRED. (a) A licensed operator
11 may not conduct a charitable poker tournament to benefit a
12 nonprofit organization unless the organization holds a license
13 issued under this subchapter.

14 (b) A licensed operator shall ensure that each nonprofit
15 organization receiving any portion of the net proceeds of a
16 charitable poker tournament conducted by the operator holds a
17 license issued by the commission under this subchapter.

18 Sec. 2004.132. LICENSE APPLICATION. (a) An applicant for a
19 nonprofit organization license must:

20 (1) submit an application to the commission on the
21 form prescribed by the commission and in accordance with commission
22 rules;

23 (2) present sufficient facts relating to the
24 applicant's incorporation and organization to enable the
25 commission to determine whether the applicant may be licensed under
26 this subchapter; and

27 (3) submit the required application fee.

1 (b) An applicant for a nonprofit organization license
2 shall:

3 (1) sign the application; and
4 (2) attest under penalties of perjury that the
5 information contained in the application is true, correct, and
6 complete.

7 (c) A copy of an Internal Revenue Service letter that
8 approves an applicant's exemption from taxation under Section
9 501(c)(3), Internal Revenue Code of 1986, is adequate evidence of
10 the person's tax-exempt status. A letter of good standing from a
11 parent organization that holds an exemption from taxation under
12 Section 501(c)(3), Internal Revenue Code of 1986, for both the
13 parent organization and its affiliate is adequate evidence of the
14 affiliate organization's tax-exempt status.

15 (d) Not later than the 30th day after the date the
16 commission grants an application for a nonprofit organization
17 license, the commission shall issue the license to the applicant.

18 Sec. 2004.133. DETERMINATION OF SUITABILITY OF NONPROFIT
19 ORGANIZATION LICENSE APPLICANT OR HOLDER. (a) The commission
20 shall determine the suitability of an applicant for or holder of a
21 nonprofit organization license based on suitability criteria
22 prescribed by the commission to ensure that the applicant is a bona
23 fide nonprofit organization and that revenue from a charitable
24 poker tournament will be used for bona fide charitable purposes.

25 (b) The burden of proving suitability to receive or hold a
26 license is on the applicant or license holder.

27 (c) The commission shall issue a nonprofit organization

1 license to an eligible applicant if the commission determines that
2 the applicant is suitable under the commission's criteria.

3 (d) The commission may adopt rules providing for a nonprofit
4 organization's continued suitability to hold a license under this
5 chapter and providing for the imposition of sanctions and penalties
6 against an organization that does not comply with this chapter or
7 rules adopted under this chapter.

8 (e) The opportunity to hold a nonprofit organization
9 license is a revocable privilege and not a right or property under
10 the United States Constitution or the Texas Constitution. An
11 applicant for or holder of a nonprofit organization license does
12 not have a vested interest or right in a license granted under this
13 chapter.

14 Sec. 2004.134. PERMIT FOR CHARITABLE POKER TOURNAMENT. (a)
15 A licensed operator may conduct a charitable poker tournament only
16 for which the operator holds a permit issued under this section.

17 (b) A licensed operator may apply for a permit to conduct a
18 charitable poker tournament by filing an application with the
19 commission on a form prescribed by the commission accompanied by
20 the required fee not less than 30 days before the date of the
21 charitable poker tournament.

22 (c) The application must include the location, date, and
23 hours of the charitable poker tournament and the name of the
24 licensed nonprofit organization the tournament will benefit.

25 (d) The application for a charitable poker tournament
26 permit must:

27 (1) be submitted in accordance with commission rules;

1 (2) include the address and dimensions of the facility
2 where the tournament will occur;

3 (3) include the date and hours of the tournament;

4 (4) include the name of each licensed nonprofit
5 organization the tournament will benefit; and

6 (5) include the number of poker tables requested for
7 the tournament, including the number of tables that are electronic
8 poker tables.

9 (e) An applicant for a charitable poker tournament permit
10 shall:

11 (1) sign the application; and

12 (2) attest under penalties of perjury that the
13 information contained in the application is true, correct, and
14 complete.

15 (f) Not later than the 10th day after the date the
16 commission grants an application for a permit, the commission shall
17 deliver the permit to the licensed operator. The permit must state
18 the location, date, hours, and number of tables authorized for the
19 charitable poker tournament. The operator must prominently display
20 the permit at the charitable poker tournament.

21 (g) The permit is valid only for the hours, date, and
22 location specified by the permit.

23 (h) A licensed operator may only operate the number of poker
24 gaming tables specified in the permit at the charitable poker
25 tournament.

26 Sec. 2004.135. CHARITABLE POKER TOURNAMENT; NET PROCEEDS.

27 (a) A licensed operator may conduct a charitable poker tournament

1 for the benefit of a licensed nonprofit organization.

2 (b) A licensed operator shall pay to a licensed nonprofit
3 organization all net proceeds from a charitable poker tournament
4 not later than the 30th day after the date of the tournament. The
5 expenses of conducting the tournament deducted by a licensed
6 operator may not exceed 30 percent of gross receipts. The expenses
7 must be reasonable or necessary to conduct the poker gaming and may
8 include expenses for:

9 (1) advertising, including the cost of printing poker
10 gaming gift certificates;

11 (2) security;

12 (3) repairs to equipment and the premises where the
13 tournament is conducted;

14 (4) poker gaming equipment and supplies used during
15 the tournament;

16 (5) prizes;

17 (6) taxes in accordance with Subchapter H;

18 (7) rental or mortgage and insurance expenses;

19 (8) bookkeeping, legal, or accounting services
20 related to the tournament;

21 (9) fees for dealers, cashiers, janitorial services,
22 and utility supplies and services;

23 (10) the permit fee; and

24 (11) debit card transaction fees.

25 (c) A licensed nonprofit organization must use the proceeds
26 from the charitable poker tournament for its charitable purposes.

27 Sec. 2004.136. DENIAL OR REVOCATION OF NONPROFIT

1 ORGANIZATION LICENSE. (a) The commission may deny an application
2 for or suspend, limit, or revoke a nonprofit organization's license
3 for any reasonable cause.

4 (b) If the commission determines that it has reasonable
5 grounds to believe that a licensed nonprofit organization might be
6 unsuitable to continue to hold the license, for protection of the
7 public health, safety, morals, and general welfare of the people of
8 this state and of the reputation of this state's poker gaming
9 industry, the commission shall conduct an investigation and hearing
10 in accordance with Subchapter J and, based on the commission's
11 determination, may deny, suspend, limit, or revoke the license.

12 (c) A nonprofit organization that has had a license
13 suspended or revoked may not receive, directly or indirectly, any
14 proceeds, compensation, consideration, or payment of any kind
15 relating to the conduct of a charitable poker tournament, other
16 than a tournament that took place before the suspension or
17 revocation.

18 [Sections 2004.137-2004.150 reserved for expansion]

19 SUBCHAPTER D. EMPLOYEE'S LICENSES

20 Sec. 2004.151. DEALER'S LICENSE REQUIRED. A person may not
21 act as a dealer unless the person holds a dealer's license.

22 Sec. 2004.152. ISSUANCE OF DEALER'S LICENSE. (a) A
23 licensed operator shall ensure that each dealer employed by the
24 operator holds a dealer's license issued by the commission.

25 (b) A dealer's license application must:

- 26 (1) be submitted in accordance with commission rules;
27 (2) contain the information the commission requires to

1 determine the applicant's suitability and eligibility to act as a
2 dealer; and

3 (3) be accompanied by the required application fee.

4 (c) An applicant for a dealer's license shall:

5 (1) sign the application; and

6 (2) attest under penalties of perjury that the
7 information contained in the application is true, correct, and
8 complete.

9 (d) The commission shall conduct a criminal background
10 check on each applicant for a dealer's license.

11 (e) Not later than the 60th day after the date the
12 commission grants an application for a dealer's license, the
13 commission shall issue a dealer's badge to the applicant. A
14 licensed dealer must prominently display on the dealer's person the
15 badge issued by the commission at all times when the dealer is on
16 the premises of a licensed operator as an employee of the licensed
17 operator.

18 Sec. 2004.153. RESIDENCY. A person is eligible to apply for
19 and hold a dealer's license without regard to the applicant's
20 residency in this state.

21 Sec. 2004.154. DETERMINATION OF SUITABILITY OF DEALER'S
22 LICENSE APPLICANT OR HOLDER. (a) The commission shall determine
23 the suitability of an applicant for or holder of a dealer's license
24 based on suitability criteria prescribed by the commission to
25 ensure that the applicant or dealer:

26 (1) has not been convicted of a felony;

27 (2) has not had a complaint alleging physical

1 intimidation filed against the applicant or dealer with a law
2 enforcement authority;

3 (3) has sufficient business probity, competence, and
4 training or experience in the poker gaming industry to act as a
5 dealer; and

6 (4) is otherwise qualified to be licensed.

7 (b) The burden of proving suitability to receive or hold a
8 dealer's license is on the applicant or license holder.

9 Sec. 2004.155. DENIAL OR REVOCATION OF DEALER'S LICENSE.

10 (a) The commission may deny an application for or suspend, limit,
11 or revoke a dealer's license for any reasonable cause.

12 (b) If the commission determines that it has reasonable
13 grounds to believe that a licensed dealer might be unsuitable to
14 continue to hold the license, for protection of the public health,
15 safety, morals, and general welfare of the people of this state and
16 of the reputation of this state's poker gaming industry, the
17 commission shall conduct an investigation and hearing as provided
18 by Subchapter J and, based on the commission's determination, may
19 deny, suspend, limit, or revoke a dealer's license.

20 (c) On the suspension or revocation of a dealer's license,
21 the license holder may not provide services in any capacity
22 requiring a license under Section 2004.151.

23 (d) A holder of a dealer's license that has been suspended
24 or revoked may not:

25 (1) receive, directly or indirectly, any
26 compensation, consideration, or payment of any kind relating to the
27 conduct of gaming in any capacity requiring a license under Section

1 2004.151, other than payment for services rendered before the
2 suspension or revocation; or

3 (2) serve or function in a capacity that would require
4 a license under Section 2004.151.

5 (e) The receipt and holding of a dealer's license is a
6 privilege and is not a right or property under the United States
7 Constitution or the Texas Constitution. An applicant for or holder
8 of a dealer's license does not have a vested interest or right in a
9 license granted under this chapter.

10 Sec. 2004.156. TRAINING PROGRAM FOR LICENSED DEALERS. (a)
11 A licensed dealer shall complete a training program in accordance
12 with commission rule.

13 (b) A training program approved by the commission must
14 include training related to:

15 (1) the conduct of poker gaming;

16 (2) the administration and operation of poker gaming;

17 (3) the promotion of poker gaming; and

18 (4) gaming awareness, including:

19 (A) problem or compulsive gambling;

20 (B) cheating techniques;

21 (C) underage gaming; and

22 (D) criminal awareness.

23 (c) The commission by rule shall establish:

24 (1) the content and time frame of the training
25 program;

26 (2) information related to training that must be
27 reported to the commission; and

1 (3) other training program requirements the
2 commission determines are necessary to promote the fair conduct of
3 poker gaming and compliance with this chapter.

4 Sec. 2004.157. OTHER EMPLOYEE'S LICENSES. (a) The
5 commission by rule may establish other employee's licenses the
6 commission determines are necessary to protect the public health,
7 safety, morals, and general welfare of the people of this state,
8 including licenses for principal managers, cage managers, owners,
9 and card room service personnel.

10 (b) A person may not engage in any conduct for which the
11 commission requires a person to hold a license under this section
12 unless the person holds the applicable license.

13 (c) The commission by rule shall prescribe procedures
14 governing licenses issued under this section as the commission
15 determines appropriate.

16 [Sections 2004.158-2004.200 reserved for expansion]

17 SUBCHAPTER E. MANUFACTURER'S AND DISTRIBUTOR'S LICENSES

18 Sec. 2004.201. MANUFACTURER'S LICENSE. (a) A person may
19 not engage in any activity related to the poker gaming equipment
20 manufacturing industry in this state for which a manufacturer's
21 license is required unless the person holds a manufacturer's
22 license for that activity.

23 (b) The commission shall adopt rules identifying activities
24 related to the design, manufacture, assembly, production, sale,
25 lease, marketing, distribution, or repair of poker gaming equipment
26 in this state for use in poker gaming authorized under this chapter
27 that the commission determines appropriate for licensing under this

1 section.

2 (c) A manufacturer's license is personal to the license
3 holder and allows the holder to conduct business related to the
4 licensed activity with any premises licensed to operate electronic
5 poker tables and poker gaming in this state.

6 Sec. 2004.202. DISTRIBUTOR'S LICENSE. (a) A person may not
7 distribute or offer to distribute poker gaming equipment for use in
8 poker gaming authorized under this chapter in this state, including
9 electronic poker tables, unless the person holds a distributor's
10 license under this subchapter.

11 (b) A person must obtain a distributor's license to
12 distribute poker gaming equipment in this state to a licensed
13 operator for use on premises at which poker gaming is conducted for
14 profit.

15 (c) A distributor's license is personal to the license
16 holder and allows the holder to conduct business with any premises
17 licensed to operate poker gaming in this state. The license is not
18 transferable.

19 Sec. 2004.203. LICENSE APPLICATION. (a) In accordance
20 with commission rules, an applicant for a manufacturer's license or
21 distributor's license shall file with the commission an application
22 that contains information the commission requires to determine the
23 suitability and eligibility of the applicant.

24 (b) The application must be signed by an applicant that is
25 an individual or by the presiding officer and the secretary of an
26 applicant that is a company. Each signatory shall attest under
27 penalties of perjury that the information contained in the

1 application is true, correct, and complete.

2 (c) An application for a manufacturer's license or
3 distributor's license must be accompanied by the required
4 application fee.

5 Sec. 2004.204. SUITABILITY DETERMINATION. (a) In
6 considering the suitability of a company applying for or holding a
7 manufacturer's license or distributor's license, the commission
8 shall consider the suitability of each principal manager and each
9 holder of an equity interest or creditor interest in the company
10 applicant to individually receive and hold a manufacturer's license
11 or distributor's license based on the suitability standards that
12 apply to the company applicant. A person may not hold a
13 manufacturer's license or distributor's license if that person
14 would be found unsuitable to hold an operator's license.

15 (b) If the commission determines that it has reasonable
16 grounds to believe an applicant or license holder is unsuitable to
17 hold a manufacturer's license or distributor's license, the
18 commission shall conduct an investigation and hearing under
19 Subchapter J and, based on the commission's determination, may
20 deny, suspend, limit, or revoke the license.

21 (c) On suspension or revocation of a license, the license
22 holder may not perform any manufacturing activity or distribution
23 activity requiring a license under this chapter. A holder of a
24 manufacturer's or distributor's license that has been suspended or
25 revoked may not receive, directly or indirectly, compensation,
26 consideration, or payment of any kind relating to any manufacturing
27 or distribution activity in any capacity requiring a license under

1 this chapter, other than payment for goods provided before the
2 suspension or revocation.

3 (d) A licensed operator who has entered into a lease with a
4 manufacturer or distributor whose license has been suspended or
5 revoked may continue to make payments on the lease based on the
6 original terms of the lease without modification or may accelerate
7 the lease and pay it off, at the sole option of the operator.

8 (e) The burden of proving suitability to receive or hold a
9 manufacturer's or distributor's license is on the applicant or
10 license holder.

11 [Sections 2004.205-2004.300 reserved for expansion]

12 SUBCHAPTER F. LICENSE RENEWAL

13 Sec. 2004.301. TEMPORARY LICENSE. (a) Before issuing a
14 license under this chapter, the commission may issue a temporary
15 license for a period not to exceed six months and may renew the
16 temporary license as many times as the commission determines
17 appropriate on the payment of the fee and execution of the bond, if
18 required.

19 (b) The commission may issue a temporary license only to a
20 person the commission believes will be qualified to hold the
21 license based on:

22 (1) the commission's review of the background
23 investigations conducted by other state agencies or other
24 government agencies in United States jurisdictions with regulated
25 poker gaming activities; and

26 (2) the commission's determination that the background
27 investigations of the applicant failed to reveal anything that

1 would cause the applicant not to qualify for a license in this
2 state.

3 Sec. 2004.302. TERM; RENEWAL. (a) A license issued under
4 this chapter expires on the first anniversary of the date of
5 issuance.

6 (b) A license holder may annually renew a license by meeting
7 the commission's licensing requirements and paying the annual
8 license fee.

9 (c) A commercial operator must at all times hold:

10 (1) an alcoholic beverage license or permit issued by
11 the Texas Alcoholic Beverage Commission authorizing the operator to
12 serve alcoholic beverages on the premises licensed by the
13 commission; or

14 (2) a pari-mutuel license issued by the Texas Racing
15 Commission authorizing the applicant to conduct wagering on a
16 greyhound race or a horse race.

17 (d) The operator shall submit with each license renewal fee
18 a renewal application on a form developed by the commission.

19 (e) A commercial operator shall immediately notify the
20 commission on cancellation or revocation by the Texas Alcoholic
21 Beverage Commission of any license or permit authorizing the
22 operator to serve alcoholic beverages on the premises licensed by
23 the commission. The Texas Alcoholic Beverage Commission shall
24 notify the commission when it cancels or revokes a license or permit
25 authorizing an operator to serve alcoholic beverages.

26 (f) A commercial operator shall immediately notify the
27 commission on cancellation or revocation by the Texas Racing

Commission of any pari-mutuel license held by the commercial operator authorizing the operator to conduct wagering on a greyhound race or a horse race. The Texas Racing Commission shall notify the commission when the Texas Racing Commission cancels or revokes a pari-mutuel license authorizing an operator to conduct wagering on a greyhound race or a horse race.

(g) The commission shall adopt rules for temporary suspension of a commercial operator's license pending reissuance of the license or reissuance of a permit to serve alcoholic beverages on the premises licensed by the commission.

[Sections 2004.303-2004.350 reserved for expansion]

SUBCHAPTER G. APPLICATION AND LICENSE FEES

Sec. 2004.351. APPLICATION FEES. (a) Except as provided by Subsection (b), an applicant for a license required by this chapter shall pay an application fee in the amount of:

- (1) \$1,000 for a commercial operator's license;
- (2) \$1,000 for a charitable operator's license;
- (3) \$100 for a nonprofit organization license;
- (4) \$100 for a dealer's license;
- (5) \$250 for a manufacturer's license; or
- (6) \$250 for a distributor's license.

(b) The commission may increase an application fee if the amount prescribed by Subsection (a) does not cover the commission's cost of evaluating the application and issuing a license.

(c) Application fees are nonrefundable and must:

- (1) be in the form prescribed by the commission; and
- (2) be payable to the commission.

(d) The commission shall apply an application fee toward the cost of investigating the applicant's suitability for licensing or qualification under this chapter. The applicant shall pay any costs of investigation incurred in excess of the assessed application fee.

Sec. 2004.352. LICENSE FEES. A holder of a license issued under this chapter shall annually pay the commission a license fee in the amount of:

- (1) \$1,000 for a charitable or commercial operator's license;
- (2) \$100 for a dealer's license;
- (3) \$250 for a manufacturer's license;
- (4) \$250 for a distributor's license; or
- (5) \$100 for a nonprofit organization license.

[Sections 2004.353-2004.400 reserved for expansion]

SUBCHAPTER H. TAXES

Sec. 2004.401. GROSS RECEIPTS TAX. (a) A tax is imposed on the gross receipts received in connection with the premises of a commercial operator conducting poker gaming under this chapter.

(b) The tax rate is 18 percent of the gross receipts received by a commercial operator for poker gaming unless the poker gaming is for a charitable poker tournament.

(c) The tax rate is five percent of the gross receipts received by a licensed operator during a charitable poker tournament.

Sec. 2004.402. PAYMENT AND REPORTING OF TAX. (a) A licensed operator must electronically submit a report of each day's

1 total gross receipts to the comptroller not later than 5 p.m. on the
2 day following the day the gross receipts were collected.

3 (b) The tax is due and payable by the licensed operator to
4 the comptroller not later than the deadline provided by Subsection
5 (a) for the report required by that subsection. The depository used
6 by a licensed operator for deposit of gross receipts taxes due to
7 the comptroller must be a licensed financial institution located in
8 this state. The comptroller may sweep or debit the licensed
9 operator's bank account on a daily basis to collect the gross
10 receipts tax due and payable. A licensed operator may not continue
11 to conduct any poker gaming activity on the operator's premises if,
12 at the time the comptroller sweeps the account, the amount reported
13 under Subsection (a) is not available for collection.

14 (c) The report of a tax must be filed under oath on forms
15 prescribed by the commission.

16 (d) The comptroller and the commission shall adopt rules for
17 the payment of the tax.

18 (e) A licensed operator required to file a tax return with
19 the comptroller shall provide a copy of the tax return to the
20 commission in the manner prescribed by commission rule.

21 (f) The comptroller shall deposit the revenue collected
22 under this section to the credit of the poker gaming revenue fund.

23 Sec. 2004.4025. POKER GAMING REVENUE FUND. (a) The poker
24 gaming revenue fund is established as an account held outside the
25 treasury.

26 (b) Money in the poker gaming revenue fund may be used only
27 for the following purposes:

1 (1) the payment of costs incurred by this state in the
2 regulation of poker gaming under this chapter; and

3 (2) after a sufficient amount is retained in the fund
4 to cover the costs provided by Subdivision (1), the balance to be
5 transferred on or before the 15th day of each month to the Texas
6 Department of Housing and Community Affairs to be used only as
7 follows:

8 (A) 50 percent for grants to municipalities,
9 counties, and nonprofit organizations to support activities
10 relating to:

11 (i) shelter and services for the homeless
12 and the prevention of homelessness;

13 (ii) renovation of shelters for use as
14 homeless shelters;

15 (iii) assistance to the homeless in
16 obtaining permanent housing;

17 (iv) medical and psychological counseling
18 for the homeless; and

19 (v) the supervision, development, and
20 implementation of homeless prevention activities; and

21 (B) the remainder to the housing trust fund
22 established under Section 2306.201, Government Code.

23 Sec. 2004.403. PENALTIES FOR FAILURE TO PAY OR REPORT TAX.

24 (a) A licensed operator that fails to deposit gross receipts tax
25 due and payable to the comptroller for the gross receipts collected
26 at the operator's premises by the deadline for payment of the tax
27 prescribed by Section 2004.402 may not conduct poker gaming at

1 those premises until the tax is paid.

2 (b) For an electronic poker table, the comptroller shall:

3 (1) electronically communicate with each electronic
4 poker table daily to verify that the software for the table is
5 functioning properly;

6 (2) electronically verify that this state has
7 collected the gross receipts tax imposed on the gross receipts of
8 the electronic poker table;

9 (3) develop rules providing minimum standards for
10 electronic poker tables used for charitable gaming activities; and

11 (4) electronically communicate with the table to
12 permit the table to be operational that day.

13 (c) If the gross receipts tax for an electronic poker table
14 has not been collected or the software for the electronic poker
15 table is not functioning properly, the comptroller shall prohibit
16 the operation of the electronic poker table by ensuring the table
17 does not receive the necessary communication from the comptroller
18 to be operational that day. The licensed operator must give the
19 comptroller and the commission assurances that the electronic poker
20 table will not open for play on that day or any subsequent day until
21 all gross receipts tax, interest, and penalties have been paid. The
22 comptroller shall adopt rules related to the assurances that a
23 licensed operator must give to the comptroller and commission under
24 this subsection.

25 (d) If a person fails to report gross receipts as required
26 by this subchapter or fails to pay to the comptroller taxes imposed
27 under this subchapter later than the second day after the date the

report or payment is due, the commission shall compute and determine the amount of taxes required to be paid and shall assess a penalty equal to five percent of the taxes owed. If the payment is not received by the 30th day after the date the gross receipts tax is due, the commission shall assess an additional penalty equal to five percent of the gross receipts tax.

(e) A delinquent tax accrues interest at the rate provided by Section 111.060, Tax Code, beginning on the 60th day after the tax due date.

(f) Interest at the rate of 10 percent a year attaches to a delinquency penalty imposed under Subsection (d), beginning on the 60th day after the date the penalty is imposed.

Sec. 2004.404. RECOMPUTATION OF TAX. (a) If the commission is not satisfied with a tax return or the amount of tax required to be remitted under this chapter to this state by a licensed operator, the commission or the comptroller may compute and determine the amount required to be paid on the basis of:

(1) the facts contained in the return or report of receipts; or

(2) any information that the commission or comptroller possesses, or that may come into the possession of the commission, without regard to the period covered by the information.

(b) A licensed operator subject to a tax computed under this section may request an investigation and hearing under Subchapter J, at which the person may present evidence on the amount of tax due.

(c) The commission shall conduct an audit of the person's

1 accounts as part of the investigation under Section 2004.501.

2 Sec. 2004.405. DETERMINATION IF NO RETURN MADE. (a) If a
3 licensed operator fails to make a required return or if a person
4 conducts poker gaming without a license issued under this chapter,
5 the commission shall estimate the gross receipts received by the
6 operator or person. The estimate must cover the period for which
7 the operator failed to make a return or during which the person
8 conducted poker gaming without a license.

9 (b) An estimate under this section must be based on any
10 information covering any period that the commission possesses or
11 that may come into the possession of the commission.

12 (c) On the basis of the commission's estimate, the
13 commission shall compute and determine the amount of taxes imposed
14 by this subchapter on those gross receipts and assess a penalty
15 equal to 10 percent of that tax amount.

16 (d) One or more determinations may be made under this
17 section for one or more periods.

18 Sec. 2004.406. JEOPARDY DETERMINATION. (a) If the
19 commission believes that the collection of a gross receipts tax
20 required to be paid or the amount of a determination under Section
21 2004.405 will be jeopardized by delay, the commission shall make a
22 determination of the amount of the tax required to be collected,
23 noting the finding of jeopardy on the determination. The
24 determined amount is due and payable immediately.

25 (b) If a license holder does not pay the amount specified by
26 a determination on or before the 20th day after the date of service
27 of the determination on the license holder, the amount becomes

1 final at the end of the 20th day unless the license holder files a
2 petition for redetermination on or before the 20th day after
3 service of notice of the determination.

4 (c) A delinquency penalty of 10 percent of the tax and
5 interest at the rate of 10 percent a year attaches to the amount of
6 the tax required to be collected.

7 Sec. 2004.407. APPLICATION OF TAX LAWS. Subtitle B, Title
8 2, Tax Code, applies to the administration, collection, and
9 enforcement of the gross receipts tax imposed under Section
10 2004.401 except as modified by this chapter.

11 Sec. 2004.408. DELINQUENCY: SEIZURE AND SALE. (a) At any
12 time within three years after a person becomes delinquent in the
13 payment of a gross receipts tax imposed under this subchapter, the
14 commission may collect the amount under this section.

15 (b) The commission may order the sheriff or constable for
16 the jurisdiction in which licensed poker gaming tables for which a
17 gross receipts tax is delinquent to conduct the seizure and sale
18 authorized by this section. The sheriff or constable may deduct
19 reasonable expenses from any amount realized by sale of the
20 property.

21 (c) The commission or sheriff or constable shall seize
22 personal or real property of the license holder that is not exempt
23 from execution under the laws of this state and sell the property at
24 public auction to pay the amount of taxes due, any interest or
25 penalties due on those taxes, and any expense incurred in
26 connection with the seizure and sale. Personal property shall be
27 seized and sold first, and real property may be seized and sold only

if the sale of personal property does not produce an amount sufficient to pay the total amount of taxes, interest, or penalties due. The seizure and sale must be conducted in accordance with applicable state law.

Sec. 2004.409. SECURITY. (a) Not later than the fifth day after the date the licensed operator receives notice from the commission of an order approving the application for an operator's license, each operator, to secure payment of the gross receipts tax imposed under this subchapter, shall furnish to the commission security in the form and amount the commission considers appropriate, which may be in the form of:

- (1) a cash bond;
- (2) a bond from a surety company chartered or authorized to conduct business in this state;
- (3) certificates of deposit;
- (4) certificates of savings;
- (5) United States treasury bonds; or
- (6) subject to the approval of the commission, an assignment of negotiable stocks or bonds.

(b) The commission shall set the amount of the security, taking into consideration the amount of money that has or is expected to become due from the licensed operator, based on the number of poker gaming tables to be operated on the operator's premises. The commission may adjust the amount of security required after the licensed operator begins conducting poker gaming on the premises and paying gross receipts taxes.

(c) If a license holder fails to pay the gross receipts tax

1 imposed under this subchapter, the commission may notify the
2 license holder and any surety of the delinquency by jeopardy or
3 deficiency determination. If payment is not made when due, the
4 commission may order the forfeit of all or part of the security to
5 cover the amount due.

6 (d) If the licensed operator ceases to conduct poker gaming
7 and relinquishes the operator's license, the commission shall
8 authorize the release of all security on a determination that no
9 amounts of the gross receipts tax remain due and payable under this
10 subchapter.

11 [Sections 2004.410-2004.450 reserved for expansion]

12 SUBCHAPTER I. REGULATION OF POKER GAMING OPERATIONS

13 Sec. 2004.451. REGULATION OF POKER GAMING OPERATIONS. The
14 commission shall adopt rules applicable to the operation of poker
15 gaming at a licensed operator's premises as the commission
16 determines necessary for the protection of the public health,
17 safety, morals, and general welfare of the people of this state and
18 of the reputation of this state's poker gaming industry.

19 Sec. 2004.452. HOURS OF OPERATION. A licensed operator may
20 conduct poker gaming on the premises covered by the license during
21 the hours of operation allowed in the alcoholic beverage license or
22 permit issued by the Texas Alcoholic Beverage Commission or in
23 applicable local law, or at any time if the operator's hours of
24 operation are not so limited. A licensed operator may elect other
25 hours of operation. The hours of operation for poker gaming must be
26 clearly posted in the poker gaming area. The hours of operation for
27 a charitable poker tournament shall be determined by the commission

1 and be specified in the permit.

2 Sec. 2004.453. TABLE LIMITS. Table limits for each poker
3 gaming table shall be established by the licensed operator. The
4 licensed operator may conduct tournaments at any time and charge a
5 buy-in fee not to exceed \$100 and a tournament registration fee not
6 to exceed \$30.

7 Sec. 2004.454. ELECTRONIC POKER TABLE. (a) An electronic
8 poker table must:

9 (1) provide each player position with a touch screen
10 that allows the player to:

11 (A) view cards dealt to the player and the
12 remaining chips and other game information; and

13 (B) input game decisions;

14 (2) include a video screen in the center of the table
15 that displays game information, chips bet by each player, and cards
16 dealt to all players;

17 (3) maintain a complete hand history for a period of 30
18 days that is accessible to the commission by remote connection;

19 (4) display the collection fee for the game in a
20 central location viewable by all players;

21 (5) provide a feature that enables a replay of the
22 previous game; and

23 (6) provide a feature that enables complete recovery
24 of the complete game if a power disruption occurs.

25 (b) An electronic poker table must use:

26 (1) a central server to deal electronic cards to each
27 player in a poker hand; and

1 (2) a cage management system application to automate
2 the creation and maintenance of accounts for players at the table,
3 to perform cash-in and cash-out functions, and for payment of the
4 gross receipts tax to this state.

5 Sec. 2004.455. BANK. A licensed operator shall establish
6 on the operator's premises a bank to convert legal United States
7 tender into chips or tokens and to convert chips or tokens into
8 cash.

9 Sec. 2004.456. USE OF CHIPS OR TOKENS. (a) All poker
10 gaming conducted by a licensed operator shall be conducted using
11 chips or tokens approved by the commission or be conducted on an
12 electronic poker table approved by the commission.

13 (b) All chips or tokens must bear the logo of the licensed
14 operator's premises and must be manufactured in a manner designed
15 to substantially decrease the chips' or tokens' susceptibility to
16 counterfeiting. The commission may inspect a licensed operator's
17 chips or tokens to confirm compliance with this section.

18 Sec. 2004.457. USE OF PLAYING CARDS. (a) Poker gaming
19 conducted by a licensed operator shall be played with one or more
20 poker industry standard poker card decks or, for an electronic
21 poker table, on an electronic poker table approved by the
22 commission that displays cards.

23 (b) Each poker card deck used in poker gaming must be sealed
24 with a label indicating the deck was manufactured or distributed by
25 a licensed manufacturer or distributor.

26 (c) Not more than 50 separate poker hands may be played with
27 the same poker card deck.

1 (d) Each poker card deck must be monitored and cataloged in
2 a log that documents the exact location of the cards on a licensed
3 operator's premises.

4 Sec. 2004.458. RULES OF PLAY. All poker rules used in poker
5 gaming conducted by a licensed operator shall be submitted to and
6 approved by the commission.

7 Sec. 2004.459. BOND REQUIREMENT. (a) Each employee of a
8 licensed operator who handles cash, other than an employee employed
9 to serve alcoholic beverages, must be bonded.

10 (b) For each employee required to comply with Subsection
11 (a), a licensed operator shall:

12 (1) submit to the commission a copy of the certificate
13 evidencing that the employee has obtained a fidelity bond from a
14 surety company chartered or authorized to conduct business in this
15 state; and

16 (2) post a copy of the certificate in a conspicuous
17 location on the operator's premises.

18 Sec. 2004.460. BADGES. (a) During the operation of poker
19 gaming, each individual licensed under this chapter shall wear in a
20 prominently visible location on the individual's person a numbered
21 badge issued by the commission.

22 (b) An individual who ceases employment with a licensed
23 operator shall immediately surrender the individual's badge to the
24 operator. Not later than the 10th day after the date the individual
25 surrenders the badge, the licensed operator shall:

26 (1) on a form adopted by the commission notify the
27 commission in writing of a change in status of the individual; and

1 (2) submit the surrendered badge to the commission.

2 (c) The badge must prominently display on the front of the
3 badge:

4 (1) capital letters identifying the license held by
5 the individual;

6 (2) the first name of the individual;

7 (3) the picture of the individual submitted with the
8 individual's license application;

9 (4) the badge number; and

10 (5) the expiration date of the license.

11 (d) The full name of the license holder, along with the type
12 of license, must be printed on the reverse side of the badge.

13 Sec. 2004.461. BONUS PROGRAMS. (a) The commission by rule
14 shall establish promotion bonus programs for bad beat hands and
15 other bonus programs. The programs may be statewide or limited to
16 individual premises.

17 (b) Each licensed operator shall:

18 (1) collect promotion bonus fees in accordance with
19 commission rule; and

20 (2) award a bonus that does not exceed \$250 to the
21 player who wins the bonus.

22 (c) The amount awarded under Subsection (b)(2) shall be
23 deducted from the daily promotion bonus fee that would otherwise be
24 remitted to this state.

25 (d) The commission shall award to the winning player of a
26 bonus program any amount that exceeds \$250.

27 (e) A distributor may collect from the commission an

1 administrative fee, not to exceed 20 percent of the promotion bonus
2 fee paid to a winning player.

3 (f) A promotion bonus program for bad beat hands or any
4 other bonus program may not be offered for a charitable poker
5 tournament.

6 Sec. 2004.462. COLLECTION FEE. (a) Each licensed operator
7 shall collect a collection fee on each poker hand played. The
8 collection fee may not exceed 10 percent of the communal pot in each
9 hand of poker played, with a maximum of \$4 per hand.

10 (b) The commission shall adopt rules necessary to
11 administer this section.

12 Sec. 2004.463. PROMOTION BONUS FEE. (a) A promotion bonus
13 fee may not exceed \$1 per hand.

14 (b) The promotion bonus fee shall be remitted to this state,
15 after deducting the gross receipts tax, the fee used for bonus
16 programs, and administrative fees not to exceed 20 percent of the
17 promotion bonus fee.

18 Sec. 2004.464. REPORTING REQUIREMENTS. (a) A licensed
19 operator shall keep books and records in a manner that clearly shows
20 the total amount of gross receipts and total deposits made by all
21 poker gaming players, including any loss limits set for any player.

22 (b) The books and records kept by a licensed operator
23 relating to poker gaming operations are not public information, and
24 publication and dissemination of the materials by the commission
25 are prohibited. The commission may publish and disseminate the
26 total gross receipts of each licensed operator at the frequency and
27 in the level of detail the commission considers appropriate.

1 (c) A licensed operator that is not an individual shall file
2 a report of each change of the operator's officers and directors
3 with the commission. The commission shall, not later than the 90th
4 day after the date of the change, approve or disapprove the change.
5 During the 90-day period, the officer or director is entitled to
6 exercise the powers of the position to which the officer or director
7 was elected or appointed.

8 (d) The commission may require that a licensed operator
9 provide the commission with a copy of the operator's federal income
10 tax return not later than the 30th day after the date the return is
11 filed with the federal government. The federal income tax returns
12 submitted to the commission are not public information, and
13 publication and dissemination of the materials by the commission
14 are prohibited.

15 Sec. 2004.465. EXCLUSION OF PERSONS. (a) The commission by
16 rule shall provide for the maintenance of a list of persons who are
17 to be excluded or ejected from poker gaming premises. The list may
18 include a person whose presence in poker gaming premises is
19 determined by the commission to pose a threat to the interests of
20 this state, to licensed poker gaming, or to both.

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

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

27 (2) violation of or conspiracy to violate the

provisions of this chapter relating to:

(A) the failure to disclose an interest in a licensed operator;

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

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

Sec. 2004.466. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) A licensed operator shall adopt an internal control system that provides for:

(1) the safeguarding of its assets and revenues, which must include means for the recording of cash transactions and balances and evidences of indebtedness; and

(2) the provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the 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 permit proper reporting of poker gaming revenue and of fees and taxes and to maintain accountability for assets;

(5) access to assets is permitted only in accordance with the licensed operator's specific authorization;

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

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

7 (c) A licensed operator or an applicant for an operator's
8 license shall describe, in a manner approved or required by the
9 director, the licensed operator's or applicant's administrative and
10 accounting procedures in detail in a written system of internal
11 control. A licensed operator or applicant for an operator's
12 license shall submit a copy of the written system. A written system
13 must include:

14 (1) an organizational chart depicting appropriate
15 segregation of duties and responsibilities;

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

18 (3) a detailed narrative description of the
19 administrative and accounting procedures designed to satisfy the
20 requirements of Section 2004.402(a);

21 (4) a written statement signed by the licensed
22 operator or applicant's chief financial officer or by the licensed
23 operator or applicant, if an individual, attesting that the system
24 satisfies the requirements of this section;

25 (5) if the written system is submitted by an
26 applicant, a letter from an independent certified public accountant
27 stating that the applicant's written system has been reviewed by

1 the certified public accountant and complies with the requirements
2 of this section; and

3 (6) other items the director may require.

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

6 Sec. 2004.467. AGE REQUIREMENTS. A person younger than 21
7 years of age may not:

8 (1) play, be allowed to play, place wagers, or collect
9 a communal pot, personally or through an agent, or be present during
10 poker gaming at any premises authorized under this chapter; or

11 (2) be employed as a poker gaming employee.

12 Sec. 2004.468. VIDEO SURVEILLANCE AND DISPUTE RESOLUTION.

13 (a) Except as provided by Subsection (b) or by commission rule for
14 a charitable poker tournament, video surveillance of the poker
15 gaming conducted at each poker gaming table shall be provided by the
16 licensed operator. At least two video surveillance cameras must be
17 dedicated to each poker gaming table. The video records must be
18 maintained for at least 30 days unless a notice is received from the
19 commission under Subsection (d), in which case the video
20 surveillance tape recording must be maintained until the commission
21 notifies the operator that the dispute has been resolved.

22 (b) Video surveillance is not required if all the poker
23 gaming tables used on the premises licensed by the commission are
24 electronic poker tables approved by the commission.

25 (c) If a player at a poker gaming table disputes the
26 decision of the dealer regarding the final disposition of an
27 individual game, the player may file a complaint with the licensed

1 operator. The licensed operator shall attempt to resolve a gaming
2 dispute immediately on receiving a complaint.

3 (d) Players in a poker game must make a formal complaint of
4 the dispute to the commission by the end of the next business day
5 following the date of the poker game. The commission shall notify
6 the licensed operator immediately of the complaint, and the
7 operator shall send to the commission a copy of any video recording
8 related to the complaint.

9 (e) The commission shall adopt rules and develop forms for
10 use by players for resolution of complaints submitted by players
11 under this section.

12 (f) The commission shall establish rules for surveillance
13 at charitable poker tournaments.

14 Sec. 2004.469. QUESTIONING AND DETENTION OF PERSONS. A
15 licensed operator or an employee of the operator may question any
16 person on the poker gaming premises who is suspected of violating
17 this chapter. The licensed operator or the operator's employee is
18 not criminally or civilly liable:

19 (1) as a result of the questioning; or
20 (2) for reporting the person suspected of the
21 violation to the director or law enforcement authorities.

22 [Sections 2004.470-2004.500 reserved for expansion]

23 SUBCHAPTER J. ENFORCEMENT

24 Sec. 2004.501. INVESTIGATION. The commission may conduct
25 an appropriate investigation to:

26 (1) determine whether this chapter or a commission
27 rule was violated;

1 (2) determine facts, conditions, practices, or
2 matters the commission considers necessary or proper to aid in the
3 enforcement of a law or rule;

4 (3) aid in adopting rules;

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

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

10 Sec. 2004.502. AUDIT. The commission may conduct an audit
11 of a license holder's books and records as part of the
12 investigation. If a recomputation of tax under Section 2004.404 is
13 at issue, the commission shall conduct an audit.

14 Sec. 2004.503. COMPLAINT. (a) If after an investigation
15 the commission is satisfied that a license, registration, finding
16 of suitability, or prior approval by the commission of a
17 transaction for which approval was required or permitted under this
18 chapter should be limited, conditioned, suspended, or revoked, or
19 that a fine should be imposed, the executive director shall
20 initiate a hearing by filing a complaint with the commission and
21 transmit a summary of evidence that bears on the matter and the
22 transcript of testimony at an investigative hearing conducted by or
23 on behalf of the executive director regarding the matter. The
24 complaint must:

25 (1) be a written statement of charges that sets forth
26 in ordinary and concise language the acts or omissions with which
27 the respondent is charged;

1 (2) specify the statute or rule that the respondent is
2 alleged to have violated;

3 (3) contain a factual allegation; and

4 (4) not consist merely of charges raised on the
5 language of the statute or rule.

6 (b) On the filing of the complaint, the executive director
7 shall serve a copy of the complaint on the respondent either
8 personally or by registered or certified mail at the respondent's
9 address on file with the executive director.

10 (c) The respondent must file an answer with the executive
11 director not later than the 30th day after the date of the service
12 of the complaint.

13 Sec. 2004.504. HEARING. (a) On receipt of a complaint
14 under this subchapter, the commission shall review all matter
15 presented in support of the complaint and shall appoint a hearing
16 examiner to conduct further proceedings.

17 (b) The hearing examiner shall conduct proceedings under
18 Chapter 2001, Government Code. After the proceedings, the hearing
19 examiner may recommend that the commission take any appropriate
20 action, including revocation, suspension, limitation, or
21 conditioning of a license, finding of suitability, or prior
22 approval, or imposition of a fine not to exceed \$5,000 for each
23 violation.

24 (c) The commission shall review the recommendation. The
25 commission may remand the case to the hearing examiner for
26 presentation of additional evidence on a showing of good cause as to
27 why the evidence could not have been presented at the previous

1 hearing.

2 (d) The commission shall accept, reject, or modify the
3 recommendation.

4 (e) If the commission limits, conditions, suspends, or
5 revokes a license, finding of suitability, or prior approval, or
6 imposes a fine, the commission shall issue a written order.

7 (f) A limitation, condition, revocation, suspension, or
8 fine imposed is effective according to its terms until reversed
9 following judicial review, except that the commission may stay its
10 order pending a rehearing or judicial review on terms and
11 conditions the commission considers proper.

12 Sec. 2004.505. JUDICIAL REVIEW. Judicial review of an
13 order or decision of the commission may be made under Chapter 2001,
14 Government Code. Judicial review is under the substantial evidence
15 rule.

16 Sec. 2004.506. PRIVILEGED DOCUMENTS. (a) A communication
17 or document of an applicant or license holder that is required by
18 law or commission rule or by a subpoena issued by the commission and
19 that is to be made or transmitted to the commission is privileged
20 and does not impose liability for defamation or constitute a ground
21 for recovery in a civil action.

22 (b) If a document or communication contains information
23 that is privileged, the privilege is not waived or lost because the
24 document or communication is disclosed to the commission.

25 (c) Notwithstanding the powers granted to the commission by
26 this chapter, the commission:

27 (1) may not release or disclose privileged

1 information, documents, or communications provided by an applicant
2 or license holder and required by a court order after timely notice
3 of the proceedings has been given to the applicant or license holder
4 without the prior written consent of the applicant or license
5 holder;

6 (2) shall maintain all privileged information,
7 documents, and communications in a secure place accessible only to
8 commission members and the executive director; and

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

12 Sec. 2004.507. RELEASE OF CONFIDENTIAL INFORMATION. (a)
13 An application to a court for an order requiring the commission to
14 release any confidential information shall be made only on a
15 written motion delivered not later than the 10th day before the date
16 of application to the commission, the attorney general, and all
17 persons who may be affected by the entry of the order.

18 (b) Copies of the motion and all papers filed in support of
19 the motion shall be served with the notice by delivering a copy in
20 person or by certified mail to the last known address of the person
21 to be served.

22 Sec. 2004.508. EMERGENCY ORDERS. (a) The commission may
23 issue an emergency order to:

24 (1) suspend, limit, or condition a license or finding
25 of suitability; or

26 (2) require a licensed operator to keep an individual
27 license holder from the premises or to not pay the holder any

1 remuneration for services or any profits, income, or accruals on
2 the licensed operator's investment in the premises.

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

5 (1) a license holder or person found suitable has
6 wilfully failed to report, pay, or truthfully account for a fee,
7 tax, or other amount imposed under this chapter or wilfully
8 attempted in any manner to evade or defeat a fee, tax, or other
9 payment;

10 (2) a license holder cheated at a poker game; or

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

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

17 (d) An emergency order may be issued only with the approval
18 of and under the signature of a majority of the commission members.

19 (e) An emergency order is effective immediately on issuance
20 and service on the license holder or resident agent of the license
21 holder, an employee, or, in cases involving registration or
22 findings of suitability, the person or entity involved or resident
23 agent of the entity involved. An emergency order may suspend,
24 limit, condition, or take other action in relation to the license,
25 registration, or suitability finding of one or more persons in an
26 operation without affecting other individual license holders or
27 persons subject to a suitability finding. An emergency order

1 remains effective until further order of the commission or final
2 disposition of the case.

3 (f) Not later than the fifth day after the date of issuance
4 of an emergency order, the executive director shall file a
5 complaint and serve it on the person involved. The person against
6 whom the emergency order has been issued and served is entitled to a
7 hearing before the commission and to judicial review of the
8 decision and order of the commission under Chapter 2001, Government
9 Code. Judicial review is under the substantial evidence rule.

10 Sec. 2004.509. ACCESS TO CRIMINAL HISTORY RECORD
11 INFORMATION. (a) The commission, the executive director, and the
12 director are entitled to conduct an investigation of and obtain
13 criminal history record information maintained by the Department of
14 Public Safety, the Federal Bureau of Investigation identification
15 division, or another law enforcement agency to assist in the
16 investigation of:

17 (1) a licensed operator or an applicant for an
18 operator's license;

19 (2) a person required to be named in a license
20 application;

21 (3) an employee of a licensed operator, if the
22 employee is or will be directly involved in poker gaming
23 operations;

24 (4) a person who manufactures or distributes poker
25 gaming equipment, or a representative of a person who manufactures
26 or distributes poker gaming equipment or supplies offered to a
27 poker card room;

1 (5) a dealer or other employee license holder or
2 applicant;

3 (6) a registered owner of an equity or creditor
4 interest in a licensed operator or an applicant for such a
5 registration;

6 (7) a licensed nonprofit organization or an applicant
7 for a nonprofit organization license; or

8 (8) if a person described in another subdivision of
9 this subsection is not an individual, an individual who:

10 (A) is an officer or director of the person;

11 (B) holds more than 10 percent of the stock in the
12 person;

13 (C) holds an equitable interest greater than 10
14 percent in the person;

15 (D) is a creditor of the person who holds more
16 than 10 percent of the person's outstanding debt;

17 (E) is the owner or lessee of a business that the
18 person conducts or through which the person will conduct poker
19 gaming-related activities;

20 (F) shares or will share in the profits, other
21 than stock dividends, of the person;

22 (G) participates in managing the affairs of the
23 person; or

24 (H) is an employee of the person who is or will be
25 involved in providing services to a poker card room.

26 (b) On each anniversary of the date of issuance of an
27 operator's license, the commission shall obtain criminal history

1 record information maintained by the Department of Public Safety on
2 the licensed operator and on each holder of a 10 percent or greater
3 equity or creditor interest in the licensed operator.

4 (c) Not later than the first anniversary after the date of
5 each license renewal, the commission shall obtain criminal history
6 record information maintained by the Department of Public Safety on
7 each licensed dealer or other employee, manufacturer, or
8 distributor.

9 Sec. 2004.510. FINGERPRINTS. The commission may deny an
10 application for a license or the commission may suspend or revoke a
11 license or certificate of registration if the applicant fails on
12 request to provide a complete legible set of fingerprints of a
13 person required to be named in a license application.

14 Sec. 2004.511. DEPARTMENT OF PUBLIC SAFETY ASSISTANCE;
15 COSTS OF INVESTIGATION. (a) The executive director or the director
16 may request the cooperation of the Department of Public Safety to
17 perform a background investigation of a person listed in Section
18 2004.509. The commission shall reimburse the department for the
19 actual cost of an investigation.

20 (b) The executive director may require a person who is
21 subject to investigation to pay all costs of the investigation and
22 to provide any information, including fingerprints, necessary to
23 carry out the investigation or facilitate access to state or
24 federal criminal history record information. Payments made to the
25 executive director under this subsection shall be deposited in the
26 general revenue fund and may be used only to reimburse the
27 commission or the Department of Public Safety for the actual costs

1 of an investigation.

2 (c) Unless otherwise prohibited by law, the Department of
3 Public Safety may retain any record or information submitted to it
4 under this section. The department shall notify the executive
5 director or the director of any change in information provided to
6 the executive director or the director when the department learns
7 of the change.

8 [Sections 2004.512-2004.550 reserved for expansion]

9 SUBCHAPTER K. PENALTIES AND OFFENSES

10 Sec. 2004.551. FAILURE TO PAY FEES. (a) License fees and
11 other fees required by this chapter must be paid to the commission
12 on or before the dates provided by law for each fee.

13 (b) A person failing to timely pay a fee when due shall pay
14 in addition a penalty of not less than \$50 or 25 percent of the
15 amount due, whichever is greater. The penalty may not exceed \$1,000
16 if the fee is less than 10 days late and may not exceed \$5,000 under
17 any circumstances. The penalty shall be collected in the same
18 manner as other charges, license fees, and penalties under this
19 chapter.

20 Sec. 2004.552. FAILURE TO REPORT, PAY, OR ACCOUNT FOR FEE.

21 (a) A person commits an offense if the person wilfully fails to
22 report, pay, or truthfully account for a fee imposed under this
23 chapter or wilfully attempts in any manner to evade or defeat a fee.

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

25 Sec. 2004.553. FRAUD. (a) A person commits an offense if
26 the person knowingly:

27 (1) alters or misrepresents the outcome of a poker

1 game on which wagers have been made after the outcome is made sure
2 but before it is revealed to the players;

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

10 (3) claims, collects, or takes, or attempts to claim,
11 collect, or take, money or anything of value in or from a poker
12 game, with intent to defraud, without having made a wager
13 contingent on the poker game, or claims, collects, or takes an
14 amount greater than the amount won;

15 (4) induces another to go to a place where poker gaming
16 is being conducted or operated in violation of this chapter, with
17 the intent that the other person play or participate in that poker
18 gaming; or

19 (5) manipulates, with the intent to cheat, a component
20 of poker gaming equipment in a manner contrary to the designed and
21 normal operational purpose for the component, with knowledge that
22 the manipulation affects the conduct or outcome of a poker game or
23 with knowledge of an event that affects the outcome of the game.

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

26 Sec. 2004.554. USE OF PROHIBITED DEVICES. (a) A person
27 commits an offense if the person, at a premises of a licensed

1 operator, uses or possesses with the intent to use a device, other
2 than a device customarily used in the conduct of poker gaming, to
3 assist in:

4 (1) projecting the outcome of a poker game; or
5 (2) analyzing the probability of the occurrence of an
6 event relating to the game.

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

9 Sec. 2004.555. USE OF COUNTERFEIT OR UNAUTHORIZED CHIPS,
10 TOKENS, PLAYING CARDS, OR OTHER DEVICES. (a) A person commits an
11 offense if the person knowingly uses counterfeit chips, tokens, or
12 playing cards in a poker game.

13 (b) A person commits an offense if the person, in playing a
14 poker game designed to be played with chips or tokens approved by
15 the commission:

16 (1) knowingly uses a chip or token other than a chip or
17 token approved by the commission; or

18 (2) uses any device or other means to violate the
19 provisions of this chapter.

20 (c) A person, other than an authorized employee of a
21 licensed operator acting in furtherance of the person's employment
22 in an establishment, commits an offense if the person knowingly has
23 on the person's body or in the person's possession on or off the
24 premises where poker gaming is conducted a device intended to be
25 used to violate the provisions of this chapter.

26 (d) A person, other than an authorized employee of a
27 licensed operator acting in furtherance of the person's employment

1 in an establishment, commits an offense if the person knowingly has
2 on the person's body or in the person's possession on or off the
3 premises a key or device known to have been designed for the purpose
4 of and suitable for opening, entering, or affecting the operation
5 of a poker gaming table, a drop box, or an electronic or mechanical
6 device connected to the table or box or for removing money or other
7 contents from the table or box.

8 (e) Possession of more than one of the devices, equipment,
9 products, or materials described in this section permits a
10 rebuttable inference that the possessor intended to use them for
11 cheating.

12 (f) An offense under this section is a felony of the third
13 degree.

14 Sec. 2004.556. CHEATING. (a) A person commits an offense
15 if the person knowingly cheats at any poker game.

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

17 Sec. 2004.557. UNAUTHORIZED OPERATION OF POKER GAMING
18 TABLES. (a) A person commits an offense if the person operates
19 poker gaming tables without a license issued by the commission.

20 (b) A person commits an offense if the person operates more
21 than four poker gaming tables at the premises of a licensed
22 operator.

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

24 Sec. 2004.558. POSSESSION OF UNLAWFUL DEVICES. (a) A
25 person commits an offense if the person knowingly possesses any
26 poker gaming device that has been manufactured, sold, or
27 distributed in violation of this chapter.

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

2 Sec. 2004.559. UNLAWFUL MANUFACTURE, SALE, OR DISTRIBUTION
3 OF POKER GAMING EQUIPMENT. (a) A person commits an offense if the
4 person manufactures, sells, or distributes electronic poker
5 tables, cards, chips, or a device intended for use in violating this
6 chapter.

7 (b) A person commits an offense if the person marks, alters,
8 or otherwise modifies any electronic poker tables, cards, chips,
9 tokens, or poker gaming device in a manner that:

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

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

15 (c) A person commits an offense if the person instructs
16 another person in cheating or in the use of a device for cheating at
17 any poker game authorized to be conducted at the premises of a
18 licensed operator, with the knowledge or intent that the
19 information or use may be employed to violate this chapter.

20 (d) An offense under this section is a felony of the third
21 degree.

22 Sec. 2004.560. REPORTING PENALTIES. (a) A person commits
23 an offense if the person, in a license application, in a book or
24 record required to be maintained by this chapter or a rule adopted
25 under this chapter, or in a report required to be submitted by this
26 chapter or a rule adopted under this chapter:

27 (1) makes a statement or entry that the person knows to

1 be false or misleading; or

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

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

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

9 Sec. 2004.561. GAMING BY MINORS. (a) A person commits an
10 offense if the person knowingly permits an individual that the
11 person knows is younger than 21 years of age to participate in poker
12 gaming at premises at which poker gaming is conducted under a
13 license issued under this chapter.

14 (b) An individual younger than 21 years of age commits an
15 offense if the individual participates in poker gaming at premises
16 at which poker gaming is conducted under a license issued under this
17 chapter.

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

19 Sec. 2004.562. GENERAL PENALTY; CONSPIRACY. (a) A person
20 commits an offense if the person knowingly or wilfully violates,
21 attempts to violate, or conspires to violate a provision of this
22 chapter specifying a prohibited act.

23 (b) Unless another penalty is specified for the offense, an
24 offense under this section is a Class A misdemeanor.

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

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

(4) was permitted under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes); ~~or~~

(5) 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

(6) was permitted under Chapter 2004, Occupations Code.

SECTION 3. 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 the premises of a licensed operator under Chapter 2004, Occupations Code, at which poker gaming may be conducted under the license; or

(2) to another jurisdiction where the possession or use of the device, equipment, or paraphernalia was legal.

SECTION 4. 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; ~~[or]~~

(C) the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes); or

(D) Chapter 2004, 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 5. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.356 to read as follows:

Sec. 151.356. ELECTRONIC AND ELECTROMECHANICAL GAMING DEVICES. An electronic or electromechanical gaming device that is intended to be used to conduct poker gaming under Chapter 2004, Occupations Code, is exempt from the tax imposed by this chapter and from the other provisions of this chapter.

SECTION 6. Section 467.035(a), Government Code, is amended to read as follows:

(a) The commission may not employ or continue to employ a person who owns a financial interest in:

(1) a bingo commercial lessor, bingo distributor, or bingo manufacturer; ~~[or]~~

(2) a lottery sales agency or a lottery operator; or

(3) a licensed operator or other license holder under Chapter 2004, Occupations Code.

SECTION 7. Not later than January 1, 2008, the Texas Lottery Commission shall adopt the rules, develop the applications and forms, and establish the procedures necessary to implement Chapter 2004, Occupations Code, as added by this Act.

SECTION 8. This Act takes effect September 1, 2007.