

By: Menendez

H.B. No. 222

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authorization and regulation of poker gaming and
3 the duties of the Texas Lottery Commission; providing civil and
4 criminal penalties.

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

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

8 CHAPTER 2004. POKER GAMING

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 2004.001. SHORT TITLE; APPLICABILITY. (a) This
11 chapter may be cited as the Poker Gaming Act of 2009.

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

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

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

20 (1) poker is a game of skill and not a lottery or gift
21 enterprise prohibited by the Texas Constitution;

22 (2) unregulated poker gaming conducted by unlicensed
23 operators in public establishments is inimical to the public
24 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 revenue 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

1 public policies while protecting the public health, safety, morals,
2 good order, and general welfare of the people of this state; and

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

7 Sec. 2004.003. DEFINITIONS. In this chapter:

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

10 (2) "Badge" means a form of identification issued by
11 the commission to identify the holder of a license issued under this
12 chapter.

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

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

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

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

26 (7) "Charitable poker tournament" means a poker
27 tournament conducted by a charitable operator or commercial

1 operator to benefit a licensed nonprofit organization.

2 (8) "Collection fee" means the amount charged on the
3 communal pot for each poker hand played in accordance with Section
4 2004.462.

5 (9) "Commercial operator" means a person who holds a
6 commercial operator's license issued by the commission under this
7 chapter.

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

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

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

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

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

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

26 (16) "Electronic poker table" means a poker gaming
27 table, including its components, that provides not more than 10

1 player positions and allows players to play against other players
2 in the same poker game using electronic cards and chips.

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

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

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

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

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

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

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

1 (22) "Licensed operator" means a charitable operator
2 or a commercial operator.

3 (23) "Manufacturer" means:

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

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

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

16 (25) "Nonprofit organization" means an unincorporated
17 association or a nonprofit corporation formed under the Texas
18 Nonprofit Corporation Law, as described by Section 1.008, Business
19 Organizations Code, that:

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

23 (B) has tax-exempt status under Section
24 501(c)(3), Internal Revenue Code of 1986.

25 (26) "Pari-mutuel license holder" means a person
26 licensed to conduct wagering on a greyhound race or a horse race
27 under the Texas Racing Act (Article 179e, Vernon's Texas Civil

1 Statutes).

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

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

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

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

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

24 (32) "Premises" means the area subject to the direct
25 control of and actual use by a licensed operator to conduct poker
26 gaming. The term includes a location or place.

27 (33) "Principal manager" means a person who, in

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

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

11 (35) "Wager" means a bet.

12 [Sections 2004.004-2004.050 reserved for expansion]

13 SUBCHAPTER B. COMMISSION POWERS AND DUTIES

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

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

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

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

25 (b) The director shall administer the poker gaming division
26 under the direction of the commission.

27 Sec. 2004.053. OFFICERS AND INVESTIGATORS. The commission

1 may employ officers or investigators the commission considers
2 necessary to administer this chapter.

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

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

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

10 (1) certified by an independent gaming equipment
11 testing lab recognized by the commission as meeting the standards
12 prescribed by Section 2004.454;

13 (2) commercially available; and

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

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

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

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

24 Sec. 2004.057. ADVISORY OPINIONS. (a) A person may request
25 from the commission an advisory opinion regarding compliance with
26 this chapter and commission rules.

27 (b) The commission shall respond to a request under

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

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

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

21 (e) Nothing in this section precludes the commission from
22 requesting an attorney general's opinion under Section 402.042,
23 Government Code. In the event the commission requests an attorney
24 general's opinion on a matter that is the subject of an advisory
25 opinion request under this section, the deadlines established under
26 Subsection (b) are tolled until the 30th day following the date the
27 attorney general's opinion is issued.

1 Sec. 2004.058. GENERAL LICENSE PROHIBITION. A person
2 described by Section 243.007(a), Local Government Code, who holds a
3 license or other permit issued by a municipality or county as
4 provided by that section may not:

5 (1) conduct poker gaming in this state; or

6 (2) hold a license issued under this chapter.

7 [Sections 2004.059-2004.100 reserved for expansion]

8 SUBCHAPTER C. LICENSE TO CONDUCT POKER GAMING

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

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

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

25 (d) A separate commercial operator's license must be
26 obtained for each location at which poker gaming is conducted by a
27 commercial operator. If the commercial operator is an Indian tribe

1 that holds a license issued under Section 2004.103(a)(1)(B), the
2 location at which poker gaming is conducted under the license must
3 be on the tribe's reservation in this state.

4 (e) The commission by rule shall prescribe the maximum
5 number of poker gaming tables a commercial operator may operate at a
6 single location licensed by the commission.

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

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

10 (a) In accordance with commission rules, an applicant for a
11 commercial operator's license shall file with the commission an
12 application that contains the information identified in
13 Subsections (b) and (c), and any additional information the
14 commission requires to determine the suitability and eligibility of
15 the applicant to conduct poker gaming in this state.

16 (b) The application must include:

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

18 (2) the names and addresses of the officers of a
19 company applicant;

20 (3) the name and address of the person that owns the
21 premises where the applicant intends to conduct poker gaming under
22 the license sought;

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

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

1 gaming;

2 (6) for a pari-mutuel license holder applicant, the
3 number of poker tables requested for the holder's racetrack,
4 including the number of tables that are electronic poker tables;
5 and

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

10 (c) An applicant, other than an applicant described by
11 Section 2004.103(a)(1)(B), must attach to the application a copy
12 of:

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

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

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

20 (1) meets one of the following requirements:

21 (A) holds:

22 (i) an alcoholic beverage license or permit
23 issued by the Texas Alcoholic Beverage Commission authorizing the
24 applicant to serve alcoholic beverages on the premises; or

25 (ii) a pari-mutuel license issued by the
26 Texas Racing Commission authorizing the applicant to conduct
27 wagering on a greyhound race or a horse race; or

1 (B) is a federally recognized Indian tribe that
2 has a reservation in this state;

3 (2) files the application in accordance with this
4 chapter;

5 (3) signs the application;

6 (4) pays the required application fee; and

7 (5) meets any additional requirements prescribed by
8 the commission.

9 (b) A person may not apply for a license under Subsection
10 (a)(1)(A) unless for at least one of the three months preceding the
11 date of the application the person paid mixed beverage taxes under
12 Subchapter B, Chapter 183, Tax Code, on the gross receipts for the
13 premises where the person intends to conduct poker gaming in an
14 amount of at least:

15 (1) \$7,500 for premises located in a municipality with
16 a population of at least 100,000; or

17 (2) \$2,500 for premises to which Subdivision (1) does
18 not apply.

19 (c) Subsection (b) does not prohibit a person from applying
20 for and receiving a commercial operator's license if the person is
21 otherwise eligible for the license.

22 (d) The commission shall revoke a commercial operator's
23 license issued under Subsection (a)(1)(A) if the operator's
24 alcoholic beverage license or permit or pari-mutuel license, as
25 applicable, expires or is revoked. The Texas Alcoholic Beverage
26 Commission shall notify the commission of any expiration or
27 revocation of an alcoholic beverage license or permit held by a

1 licensed operator. The Texas Racing Commission shall notify the
2 commission of any expiration or revocation of a pari-mutuel license
3 held by a licensed operator.

4 (e) If video surveillance is required under Section
5 2004.469, the commission may not issue a commercial operator's
6 license to an applicant unless the applicant provides the video
7 surveillance equipment required by that section.

8 (f) The commission may adopt rules providing for a person's
9 continued suitability to hold a commercial operator's license.

10 (g) The opportunity to hold a commercial operator's license
11 is a revocable privilege and not a right or property under the
12 United States Constitution or the Texas Constitution. An applicant
13 for or holder of a commercial operator's license does not have a
14 vested interest or right in a license granted under this chapter.

15 Sec. 2004.104. CHARITABLE OPERATOR'S LICENSE. (a) In
16 accordance with commission rules, an applicant for a charitable
17 operator's license shall file with the commission an application
18 that contains the information identified in Subsection (b) and any
19 additional information the commission requires to determine the
20 suitability and eligibility of the applicant to conduct poker
21 gaming in this state.

22 (b) The application must include:

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

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

26 (3) the name and address of the person that owns the
27 premises where the applicant intends to conduct charitable poker

1 gaming under the license sought;

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

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

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

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

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

23 (d) The commission may adopt rules providing for a person's
24 continued suitability to hold a charitable operator's license and
25 providing for the imposition of sanctions and penalties against a
26 person who does not comply with this chapter or rules adopted under
27 this chapter.

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

6 Sec. 2004.106. NONTRANSFERABILITY. A commercial
7 operator's license applies only to the specific premises location
8 identified in the license and is not transferable to another person
9 or location.

10 Sec. 2004.107. REGISTRATION OF INTEREST IN OPERATOR. (a)
11 Except as provided by Subsection (b), a person who directly or
12 indirectly owns an equity interest or creditor interest in an
13 applicant for or holder of a commercial operator's license shall:

14 (1) register and qualify with the commission under
15 commission rules; and

16 (2) provide information the commission finds
17 necessary to determine the suitability and eligibility of the
18 person to retain the interest.

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

21 (1) an employee of a licensed operator who is required
22 to apply for an employee's license under Subchapter E;

23 (2) an institutional investor; or

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

26 (c) The commission shall adopt rules to implement this
27 section, including rules establishing procedures for registration

1 application, qualification, and renewal. A registration filed
2 under this section must be accompanied by the required application
3 fee.

4 [Sections 2004.108-2004.150 reserved for expansion]

5 SUBCHAPTER D. NONPROFIT ORGANIZATION LICENSE; CHARITABLE POKER

6 TOURNAMENT PERMIT

7 Sec. 2004.151. LICENSE REQUIRED. (a) A licensed operator
8 may not conduct a charitable poker tournament to benefit a
9 nonprofit organization unless the organization holds a license
10 issued under this subchapter.

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

15 Sec. 2004.152. LICENSE APPLICATION. (a) An applicant for a
16 nonprofit organization license must:

17 (1) submit an application to the commission on the
18 form prescribed by the commission and in accordance with commission
19 rules;

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

24 (3) submit the required application fee.

25 (b) An applicant for a nonprofit organization license
26 shall:

27 (1) sign the application; and

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

4 (c) The following are adequate evidence of an applicant's
5 tax-exempt status:

6 (1) a copy of an Internal Revenue Service letter that
7 approves the applicant's exemption from taxation under Section
8 501(c)(3), Internal Revenue Code of 1986; or

9 (2) a letter of good standing from a parent
10 organization of the applicant that holds an exemption from taxation
11 under Section 501(c)(3), Internal Revenue Code of 1986, for both
12 the parent organization and the applicant as its affiliate.

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

16 Sec. 2004.153. DETERMINATION OF SUITABILITY OF NONPROFIT
17 ORGANIZATION LICENSE APPLICANT OR HOLDER. (a) The commission
18 shall determine the suitability of an applicant for or holder of a
19 nonprofit organization license based on suitability criteria
20 prescribed by the commission to ensure that the applicant is a bona
21 fide nonprofit organization and that revenue from a charitable
22 poker tournament will be used for bona fide charitable purposes.

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

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

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

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

12 Sec. 2004.154. PERMIT FOR CHARITABLE POKER TOURNAMENT. (a)
13 A licensed operator may conduct a charitable poker tournament only
14 for which the operator holds a permit issued under this section.

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

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

23 (d) The application for a charitable poker tournament
24 permit must:

- 25 (1) be submitted in accordance with commission rules;
26 (2) include the address and dimensions of the facility
27 where the tournament will occur;

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

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

4 (5) include the number of poker tables requested for
5 the tournament, including the number of electronic poker tables.

6 (e) An applicant for a charitable poker tournament permit
7 shall:

8 (1) sign the application; and

9 (2) attest under penalties of perjury that the
10 information contained in the application is true, correct, and
11 complete.

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

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

20 (h) A licensed operator may only operate the number of poker
21 gaming tables specified in the permit at the charitable poker
22 tournament.

23 Sec. 2004.155. CHARITABLE POKER TOURNAMENT; NET PROCEEDS.

24 (a) A licensed operator may conduct a charitable poker tournament
25 for the benefit of a licensed nonprofit organization.

26 (b) A licensed operator shall pay to a licensed nonprofit
27 organization all net proceeds from a charitable poker tournament

1 not later than the 30th day after the date of the tournament. The
2 expenses of conducting the tournament deducted by a licensed
3 operator may not exceed 30 percent of gross receipts. The expenses
4 must be reasonable or necessary to conduct the poker gaming and may
5 include expenses for:

6 (1) advertising, including the cost of printing poker
7 gaming gift certificates;

8 (2) security;

9 (3) repairs to equipment and the premises where the
10 tournament is conducted;

11 (4) poker gaming equipment and supplies used during
12 the tournament;

13 (5) prizes;

14 (6) taxes in accordance with Subchapter I;

15 (7) rental or mortgage and insurance expenses;

16 (8) bookkeeping, legal, or accounting services
17 related to the tournament;

18 (9) fees for dealers, cashiers, janitorial services,
19 and utility supplies and services;

20 (10) the permit fee; and

21 (11) debit card transaction fees.

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

24 Sec. 2004.156. DENIAL OR REVOCATION OF NONPROFIT
25 ORGANIZATION LICENSE. (a) The commission may deny an application
26 for or suspend, limit, or revoke a nonprofit organization's license
27 for any reasonable cause.

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

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

15 [Sections 2004.157-2004.200 reserved for expansion]

16 SUBCHAPTER E. EMPLOYEE'S LICENSES

17 Sec. 2004.201. DEALER'S LICENSE REQUIRED. A person may not
18 act as a dealer unless the person holds a dealer's license.

19 Sec. 2004.202. ISSUANCE OF DEALER'S LICENSE. (a) A
20 licensed operator shall ensure that each dealer employed by the
21 operator holds a dealer's license issued by the commission.

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

23 (1) be submitted in accordance with commission rules;
24 (2) contain the information the commission requires to
25 determine the applicant's suitability and eligibility to act as a
26 dealer; and

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

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

2 (1) sign the application; and

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

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

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

15 Sec. 2004.203. RESIDENCY. A person is eligible to apply for
16 and hold a dealer's license without regard to the applicant's
17 residency in this state.

18 Sec. 2004.204. DETERMINATION OF SUITABILITY OF DEALER'S
19 LICENSE APPLICANT OR HOLDER. (a) The commission shall determine
20 the suitability of an applicant for or holder of a dealer's license
21 based on suitability criteria prescribed by the commission to
22 ensure that the applicant or dealer:

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

24 (2) has not had a complaint alleging physical
25 intimidation filed against the applicant or dealer with a law
26 enforcement authority;

27 (3) has sufficient business probity, competence, and

1 training or experience in the poker gaming industry to act as a
2 dealer; and

3 (4) is otherwise qualified to be licensed.

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

6 Sec. 2004.205. DENIAL OR REVOCATION OF DEALER'S LICENSE.

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

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

17 (c) On the suspension or revocation of a dealer's license,
18 the license holder may not provide services in any capacity
19 requiring a license under Section 2004.201.

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

22 (1) receive, directly or indirectly, any
23 compensation, consideration, or payment of any kind relating to the
24 conduct of gaming in any capacity requiring a license under Section
25 2004.201, other than payment for services rendered before the
26 suspension or revocation; or

27 (2) serve or function in a capacity that would require

1 a license under Section 2004.201.

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

7 Sec. 2004.206. TRAINING PROGRAM FOR LICENSED DEALERS. (a)
8 A licensed dealer shall complete a training program in accordance
9 with commission rule.

10 (b) A training program approved by the commission must
11 include training related to:

12 (1) the conduct of poker gaming;

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

14 (3) the promotion of poker gaming; and

15 (4) gaming awareness, including:

16 (A) problem or compulsive gambling;

17 (B) cheating techniques;

18 (C) underage gaming; and

19 (D) criminal awareness.

20 (c) The commission by rule shall establish:

21 (1) the content and time frame of the training
22 program;

23 (2) information related to training that must be
24 reported to the commission; and

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

1 Sec. 2004.207. OTHER EMPLOYEE'S LICENSES. (a) The
2 commission by rule may establish other employee's licenses the
3 commission determines are necessary to protect the public health,
4 safety, morals, and general welfare of the people of this state,
5 including licenses for principal managers, cage managers, owners,
6 and card room service personnel.

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

10 (c) The commission by rule shall prescribe procedures
11 governing licenses issued under this section as the commission
12 determines appropriate.

13 [Sections 2004.208-2004.250 reserved for expansion]

14 SUBCHAPTER F. MANUFACTURER'S AND DISTRIBUTOR'S LICENSES

15 Sec. 2004.251. MANUFACTURER'S LICENSE. (a) A person may
16 not engage in any activity related to the poker gaming equipment
17 manufacturing industry in this state for which a manufacturer's
18 license is required unless the person holds a manufacturer's
19 license for that activity.

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

26 (c) A manufacturer's license is personal to the license
27 holder and allows the holder to conduct business related to the

1 licensed activity with any premises licensed to operate electronic
2 poker tables and poker gaming in this state.

3 Sec. 2004.252. DISTRIBUTOR'S LICENSE. (a) A person may not
4 distribute or offer to distribute poker gaming equipment for use in
5 poker gaming authorized under this chapter in this state, including
6 electronic poker tables, unless the person holds a distributor's
7 license under this subchapter.

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

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

16 Sec. 2004.253. LICENSE APPLICATION. (a) In accordance
17 with commission rules, an applicant for a manufacturer's license or
18 distributor's license shall file with the commission an application
19 that contains information the commission requires to determine the
20 suitability and eligibility of the applicant.

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

26 (c) An application for a manufacturer's license or
27 distributor's license must be accompanied by the required

1 application fee.

2 Sec. 2004.254. SUITABILITY DETERMINATION. (a) In
3 considering the suitability of a company applying for or holding a
4 manufacturer's license or distributor's license, the commission
5 shall consider the suitability of each principal manager and each
6 holder of an equity interest or creditor interest in the company
7 applicant to individually receive and hold a manufacturer's license
8 or distributor's license based on the suitability standards that
9 apply to the company applicant. A person may not hold a
10 manufacturer's license or distributor's license if that person
11 would be found unsuitable to hold an operator's license.

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

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

27 (d) A licensed operator who has entered into a lease with a

1 manufacturer or distributor whose license has been suspended or
2 revoked may continue to make payments on the lease based on the
3 original terms of the lease without modification or may accelerate
4 the lease and pay it off, at the sole option of the operator.

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

8 [Sections 2004.255-2004.300 reserved for expansion]

9 SUBCHAPTER G. LICENSE RENEWAL

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

16 (b) The commission may issue a temporary license only to a
17 person the commission believes will be qualified to hold the
18 license based on:

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

23 (2) the commission's determination that the background
24 investigations of the applicant failed to reveal anything that
25 would cause the applicant not to qualify for a license in this
26 state.

27 Sec. 2004.302. TERM; RENEWAL. (a) A license issued under

1 this chapter expires on the first anniversary of the date of
2 issuance.

3 (b) A license holder may annually renew a license by meeting
4 the commission's licensing requirements and paying the annual
5 license fee.

6 (c) A commercial operator, other than an operator described
7 by Section 2004.103(a)(1)(B), must at all times hold:

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

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

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

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

24 (f) A commercial operator shall immediately notify the
25 commission on cancellation or revocation by the Texas Racing
26 Commission of any pari-mutuel license held by the commercial
27 operator authorizing the operator to conduct wagering on a

1 greyhound race or a horse race. The Texas Racing Commission shall
2 notify the commission when the Texas Racing Commission cancels or
3 revokes a pari-mutuel license authorizing an operator to conduct
4 wagering on a greyhound race or a horse race.

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

9 [Sections 2004.303-2004.350 reserved for expansion]

10 SUBCHAPTER H. APPLICATION AND LICENSE FEES

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

- 14 (1) \$1,000 for a commercial operator's license;
15 (2) \$1,000 for a charitable operator's license;
16 (3) \$100 for a nonprofit organization license;
17 (4) \$100 for a dealer's license;
18 (5) \$250 for a manufacturer's license; or
19 (6) \$250 for a distributor's license.

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

23 (c) Application fees are nonrefundable and must:

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

26 (d) The commission shall apply an application fee toward the
27 cost of investigating the applicant's suitability for licensing or

1 qualification under this chapter. The applicant shall pay any
2 costs of investigation incurred in excess of the assessed
3 application fee.

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

7 (1) \$1,000 for a charitable or commercial operator's
8 license;

9 (2) \$100 for a dealer's license;

10 (3) \$250 for a manufacturer's license;

11 (4) \$250 for a distributor's license; or

12 (5) \$100 for a nonprofit organization license.

13 [Sections 2004.353-2004.400 reserved for expansion]

14 SUBCHAPTER I. TAXES

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

18 (b) Except as provided by Subsections (c) and (d), the tax
19 rate is 18 percent of the gross receipts received for poker gaming
20 by a commercial operator.

21 (c) Except as provided by Subsection (d), the tax rate is 16
22 percent of the gross receipts received for poker gaming by a
23 commercial operator who holds a pari-mutuel license described by
24 Section 2004.103(a)(1)(A)(ii).

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

1 Sec. 2004.402. PAYMENT AND REPORTING OF TAX. (a) A
2 licensed operator must electronically submit a report of each day's
3 total gross receipts to the comptroller not later than 5 p.m. on the
4 day following the day the gross receipts were collected.

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

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

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

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

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

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

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

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

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

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

13 (i) shelter and services for the homeless
14 and the prevention of homelessness;

15 (ii) renovation of shelters for use as
16 homeless shelters;

17 (iii) assistance to the homeless in
18 obtaining permanent housing;

19 (iv) medical and psychological counseling
20 for the homeless; and

21 (v) the supervision, development, and
22 implementation of homeless prevention activities; and

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

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

26 (a) A licensed operator that fails to deposit gross receipts tax
27 due and payable to the comptroller for the gross receipts collected

1 at the operator's premises by the deadline for payment of the tax
2 prescribed by Section 2004.402 may not conduct poker gaming at
3 those premises until the tax is paid.

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

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

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

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

13 (4) electronically communicate with the table to
14 permit the table to be operational that day.

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

27 (d) If a person fails to report gross receipts as required

1 by this subchapter or fails to pay to the comptroller taxes imposed
2 under this subchapter later than the second day after the date the
3 report or payment is due, the commission shall compute and
4 determine the amount of taxes required to be paid and shall assess a
5 penalty equal to five percent of the taxes owed. If the payment is
6 not received by the 30th day after the date the gross receipts tax
7 is due, the commission shall assess an additional penalty equal to
8 five percent of the gross receipts tax.

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

12 (f) Interest at the rate of 10 percent a year attaches to a
13 delinquency penalty imposed under Subsection (d), beginning on the
14 60th day after the date the penalty is imposed.

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

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

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

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

1 due.

2 (c) The commission shall conduct an audit of the person's
3 accounts as part of the investigation under Section 2004.501.

4 Sec. 2004.405. DETERMINATION IF RETURN NOT MADE. (a) If a
5 licensed operator fails to make a required return or if a person
6 conducts poker gaming without a license issued under this chapter,
7 the commission shall estimate the gross receipts received by the
8 operator or person. The estimate must cover the period:

- 9 (1) for which the operator failed to make a return; or
10 (2) during which the person conducted poker gaming
11 without a license.

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

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

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

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

1 (b) If a license holder does not pay the amount specified by
2 a determination on or before the 20th day after the date of service
3 of the determination on the license holder, the amount becomes
4 final at the end of the 20th day unless the license holder files a
5 petition for redetermination on or before the 20th day after
6 service of notice of the determination.

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

10 Sec. 2004.407. APPLICATION OF TAX LAWS. Subtitle B, Title
11 2, Tax Code, applies to the administration, collection, and
12 enforcement of the gross receipts tax imposed under Section
13 2004.401 except as modified by this chapter.

14 Sec. 2004.408. DELINQUENCY: SEIZURE AND SALE. (a) At any
15 time before the third anniversary of the date a person becomes
16 delinquent in the payment of a gross receipts tax imposed under this
17 subchapter, the commission may collect the amount under this
18 section.

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

25 (c) The commission or sheriff or constable shall seize
26 personal or real property of the license holder that is not exempt
27 from execution under the laws of this state and sell the property at

1 public auction to pay the amount of taxes due, any interest or
2 penalties due on those taxes, and any expense incurred in
3 connection with the seizure and sale. Personal property must be
4 seized and sold first, and real property may be seized and sold only
5 if the sale of personal property does not produce an amount
6 sufficient to pay the total amount of taxes, interest, or penalties
7 due. The seizure and sale must be conducted in accordance with
8 applicable state law.

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

16 (1) a cash bond;

17 (2) a bond from a surety company chartered or
18 authorized to conduct business in this state;

19 (3) certificates of deposit;

20 (4) certificates of savings;

21 (5) United States treasury bonds; or

22 (6) subject to the approval of the commission, an
23 assignment of negotiable stocks or bonds.

24 (b) The commission shall set the amount of the security,
25 taking into consideration the amount of money that has or is
26 expected to become due from the licensed operator, based on the
27 number of poker gaming tables to be operated on the operator's

1 premises. The commission may adjust the amount of security
2 required after the licensed operator begins conducting poker gaming
3 on the premises and paying gross receipts taxes.

4 (c) If a license holder fails to pay the gross receipts tax
5 imposed under this subchapter, the commission may notify the
6 license holder and any surety of the delinquency by jeopardy or
7 deficiency determination. If payment is not made when due, the
8 commission may order the forfeit of all or part of the security to
9 cover the amount due.

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

15 [Sections 2004.410-2004.450 reserved for expansion]

16 SUBCHAPTER J. REGULATION OF POKER GAMING OPERATIONS

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

23 Sec. 2004.452. HOURS OF OPERATION. A licensed operator may
24 conduct poker gaming on the premises covered by the license during
25 the hours of operation allowed in the alcoholic beverage license or
26 permit issued by the Texas Alcoholic Beverage Commission or in
27 applicable local law, or at any time if the operator's hours of

1 operation are not so limited. A licensed operator may elect other
2 hours of operation. The hours of operation for poker gaming must be
3 clearly posted in the poker gaming area. The hours of operation for
4 a charitable poker tournament shall be determined by the commission
5 and be specified in the permit.

6 Sec. 2004.453. TABLE LIMITS; TOURNAMENTS. (a) A licensed
7 operator shall establish table limits for each poker gaming table.

8 (b) The licensed operator may conduct tournaments at any
9 time and charge a buy-in fee not to exceed \$100 and a tournament
10 registration fee not to exceed \$30.

11 Sec. 2004.454. ELECTRONIC POKER TABLE. (a) An electronic
12 poker table must:

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

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

17 (B) input game decisions;

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

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

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

25 (5) provide a feature that enables a replay of the
26 previous game; and

27 (6) provide a feature that enables complete recovery

1 of the complete game if a power disruption occurs.

2 (b) An electronic poker table must use:

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

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

9 Sec. 2004.455. BANK. A licensed operator shall establish
10 on the operator's premises a bank to convert legal United States
11 tender into chips or tokens and to convert chips or tokens into
12 cash.

13 Sec. 2004.456. USE OF CHIPS OR TOKENS. (a) All poker
14 gaming conducted by a licensed operator shall be conducted using
15 chips or tokens approved by the commission or be conducted on an
16 electronic poker table approved by the commission.

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

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

27 (b) Each poker card deck used in poker gaming must be sealed

1 with a label indicating the deck was manufactured or distributed by
2 a licensed manufacturer or distributor.

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

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

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

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

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

16 (1) submit to the commission a copy of the certificate
17 evidencing that the employee has obtained a fidelity bond from a
18 surety company chartered or authorized to conduct business in this
19 state; and

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

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

26 (b) An individual who ceases employment with a licensed
27 operator shall immediately surrender the individual's badge to the

1 operator. Not later than the 10th day after the date the individual
2 surrenders the badge, the licensed operator shall:

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

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

6 (c) The badge must prominently display on the front of the
7 badge:

8 (1) capital letters identifying the license held by
9 the individual;

10 (2) the first name of the individual;

11 (3) the picture of the individual submitted with the
12 individual's license application;

13 (4) the badge number; and

14 (5) the expiration date of the license.

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

17 Sec. 2004.461. BONUS PROGRAMS. (a) The commission by rule
18 shall establish promotion bonus programs for bad beat hands and
19 other bonus programs. The programs may be statewide or limited to
20 individual premises.

21 (b) Each licensed operator shall:

22 (1) collect promotion bonus fees in accordance with
23 commission rule; and

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

26 (c) The amount awarded under Subsection (b)(2) shall be
27 deducted from the daily promotion bonus fee that would otherwise be

1 remitted to this state.

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

4 (e) A distributor may collect from the commission an
5 administrative fee, not to exceed 20 percent of the promotion bonus
6 fee paid to a winning player.

7 (f) A promotion bonus program for bad beat hands or any
8 other bonus program may not be offered for a charitable poker
9 tournament.

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

14 (b) The commission shall adopt rules necessary to
15 administer this section.

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

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

22 Sec. 2004.464. CONTRIBUTION TO PURSE FUND. (a) A
23 pari-mutuel license holder described by Section
24 2004.103(a)(1)(A)(ii) that conducts poker gaming in this state
25 shall deposit in a purse fund two percent of the license holder's
26 gross receipts from that poker gaming.

27 (b) Money in the purse fund may only be expended in

1 accordance with rules adopted by the Texas Racing Commission under
2 Section 18.09, Texas Racing Act (Article 179e, Vernon's Texas Civil
3 Statutes).

4 Sec. 2004.465. REPORTING REQUIREMENTS. (a) A licensed
5 operator shall keep books and records in a manner that clearly shows
6 the total amount of gross receipts and total deposits made by all
7 poker gaming players, including any loss limits set for any player.

8 (b) The books and records kept by a licensed operator
9 relating to poker gaming operations are not public information, and
10 publication and dissemination of the materials by the commission
11 are prohibited. The commission may publish and disseminate the
12 total gross receipts of each licensed operator at the frequency and
13 in the level of detail the commission considers appropriate.

14 (c) A licensed operator that is not an individual shall file
15 a report of each change of the operator's officers and directors
16 with the commission. The commission shall, not later than the 90th
17 day after the date of the change, approve or disapprove the change.
18 During the 90-day period, the officer or director is entitled to
19 exercise the powers of the position to which the officer or director
20 was elected or appointed.

21 (d) The commission may require that a licensed operator
22 provide the commission with a copy of the operator's federal income
23 tax return not later than the 30th day after the date the return is
24 filed with the federal government. The federal income tax returns
25 submitted to the commission are not public information, and
26 publication and dissemination of the materials by the commission
27 are prohibited.

1 Sec. 2004.466. EXCLUSION OF PERSONS. (a) The commission by
2 rule shall provide for the maintenance of a list of persons who are
3 to be excluded or ejected from poker gaming premises. The list may
4 include a person whose presence in poker gaming premises is
5 determined by the commission to pose a threat to the interests of
6 this state, to licensed poker gaming, or to both.

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

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

13 (2) violation of or conspiracy to violate the
14 provisions of this chapter relating to:

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

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

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

21 Sec. 2004.467. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) A
22 licensed operator shall adopt an internal control system that
23 provides for:

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

27 (2) the provision of reliable records, accounts, and

1 reports of transactions, operations, and events, including reports
2 to the director and the commission.

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

5 (1) assets are safeguarded;

6 (2) financial records are accurate and reliable;

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

9 (4) transactions are recorded adequately to permit
10 proper reporting of poker gaming revenue and of fees and taxes and
11 to maintain accountability for assets;

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

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

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

20 (c) A licensed operator or an applicant for an operator's
21 license shall describe, in a manner approved or required by the
22 director, the licensed operator's or applicant's administrative and
23 accounting procedures in detail in a written system of internal
24 control. A licensed operator or applicant for an operator's
25 license shall submit a copy of the written system. A written system
26 must include:

27 (1) an organizational chart depicting appropriate

1 segregation of duties and responsibilities;

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

4 (3) a detailed narrative description of the
5 administrative and accounting procedures designed to satisfy the
6 requirements of Section 2004.402(a);

7 (4) a written statement signed by the licensed
8 operator or applicant's chief financial officer or by the licensed
9 operator or applicant, if an individual, attesting that the system
10 satisfies the requirements of this section;

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

16 (6) other items the director may require.

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

19 Sec. 2004.468. AGE REQUIREMENTS. A person younger than 21
20 years of age may not:

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

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

25 Sec. 2004.469. VIDEO SURVEILLANCE AND DISPUTE RESOLUTION.

26 (a) Except as provided by Subsection (b) or by commission rule for
27 a charitable poker tournament, video surveillance of the poker

1 gaming conducted at each poker gaming table shall be provided by the
2 licensed operator. At least two video surveillance cameras must be
3 dedicated to each poker gaming table. The video records must be
4 maintained for at least 30 days unless a notice is received from the
5 commission under Subsection (d), in which case the video
6 surveillance tape recording must be maintained until the commission
7 notifies the operator that the dispute has been resolved.

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

11 (c) If a player at a poker gaming table disputes the
12 decision of the dealer regarding the final disposition of an
13 individual game, the player may file a complaint with the licensed
14 operator. The licensed operator shall attempt to resolve a gaming
15 dispute immediately on receiving a complaint.

16 (d) Players in a poker game must make a formal complaint of
17 the dispute to the commission by the end of the next business day
18 following the date of the poker game. The commission shall notify
19 the licensed operator immediately of the complaint, and the
20 operator shall send to the commission a copy of any video recording
21 related to the complaint.

22 (e) The commission shall adopt rules and develop forms for
23 use by players for resolution of complaints submitted by players
24 under this section.

25 (f) The commission shall establish rules for surveillance
26 at charitable poker tournaments.

27 Sec. 2004.470. QUESTIONING AND DETENTION OF PERSONS. A

1 licensed operator or an employee of the operator may question any
2 person on the poker gaming premises who is suspected of violating
3 this chapter. The licensed operator or the operator's employee is
4 not criminally or civilly liable:

- 5 (1) as a result of the questioning; or
6 (2) for reporting the person suspected of the
7 violation to the director or law enforcement authorities.

8 Sec. 2004.471. SERVICE OF COMPLIMENTARY ALCOHOLIC
9 BEVERAGES PROHIBITED. A licensed operator may not serve
10 complimentary alcoholic beverages to a player on the operator's
11 poker gaming premises.

12 [Sections 2004.472-2004.500 reserved for expansion]

13 SUBCHAPTER K. ENFORCEMENT

14 Sec. 2004.501. INVESTIGATION. The commission may conduct
15 an appropriate investigation to:

16 (1) determine whether this chapter or a commission
17 rule was violated;

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

21 (3) aid in adopting rules;

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

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

27 Sec. 2004.502. AUDIT. The commission may conduct an audit

1 of a license holder's books and records as part of the
2 investigation. If a recomputation of tax under Section 2004.404 is
3 at issue, the commission shall conduct an audit.

4 Sec. 2004.503. COMPLAINT. (a) If after an investigation
5 the commission is satisfied that a license, registration, finding
6 of suitability, or prior approval by the commission of a
7 transaction for which approval was required or permitted under this
8 chapter should be limited, conditioned, suspended, or revoked, or
9 that a fine should be imposed, the executive director shall
10 initiate a hearing by filing a complaint with the commission and
11 transmit a summary of evidence that bears on the matter and the
12 transcript of testimony at an investigative hearing conducted by or
13 on behalf of the executive director regarding the matter. The
14 complaint must:

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

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

20 (3) contain a factual allegation; and

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

23 (b) On the filing of the complaint, the executive director
24 shall serve a copy of the complaint on the respondent either
25 personally or by registered or certified mail at the respondent's
26 address on file with the executive director.

27 (c) The respondent must file an answer with the executive

1 director not later than the 30th day after the date of the service
2 of the complaint.

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

7 (b) The hearing examiner shall conduct proceedings under
8 Chapter 2001, Government Code. After the proceedings, the hearing
9 examiner may recommend that the commission take any appropriate
10 action, including revocation, suspension, limitation, or
11 conditioning of a license, finding of suitability, or prior
12 approval, or imposition of a fine not to exceed \$5,000 for each
13 violation.

14 (c) The commission shall review the recommendation. The
15 commission may remand the case to the hearing examiner for
16 presentation of additional evidence on a showing of good cause as to
17 why the evidence could not have been presented at the previous
18 hearing.

19 (d) The commission shall accept, reject, or modify the
20 recommendation.

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

24 (f) A limitation, condition, revocation, suspension, or
25 fine imposed is effective according to its terms until reversed
26 following judicial review, except that the commission may stay its
27 order pending a rehearing or judicial review on terms and

1 conditions the commission considers proper.

2 Sec. 2004.505. JUDICIAL REVIEW. Judicial review of an
3 order or decision of the commission may be made under Chapter 2001,
4 Government Code. Judicial review is under the substantial evidence
5 rule.

6 Sec. 2004.506. PRIVILEGED DOCUMENTS. (a) A communication
7 or document of an applicant or license holder that is required by
8 law or commission rule or by a subpoena issued by the commission and
9 that is to be made or transmitted to the commission is privileged
10 and does not impose liability for defamation or constitute a ground
11 for recovery in a civil action.

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

15 (c) Notwithstanding the powers granted to the commission by
16 this chapter, the commission:

17 (1) may not release or disclose privileged
18 information, documents, or communications provided by an applicant
19 or license holder and required by a court order after timely notice
20 of the proceedings has been given to the applicant or license holder
21 without the prior written consent of the applicant or license
22 holder;

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

26 (3) shall adopt procedures to protect the privileged
27 nature of information, documents, and communications provided by an

1 applicant or license holder.

2 Sec. 2004.507. RELEASE OF CONFIDENTIAL INFORMATION. (a)

3 An application to a court for an order requiring the commission to
4 release any confidential information shall be made only on a
5 written motion delivered not later than the 10th day before the date
6 of application to the commission, the attorney general, and all
7 persons who may be affected by the entry of the order.

8 (b) Copies of the motion and all papers filed in support of
9 the motion shall be served with the notice by delivering a copy in
10 person or by certified mail to the last known address of the person
11 to be served.

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

14 (1) suspend, limit, or condition a license or finding
15 of suitability; or

16 (2) require a licensed operator to keep an individual
17 license holder from the premises or to not pay the holder any
18 remuneration for services or any profits, income, or accruals on
19 the licensed operator's investment in the premises.

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

22 (1) a license holder or person found suitable has
23 wilfully failed to report, pay, or truthfully account for a fee,
24 tax, or other amount imposed under this chapter or wilfully
25 attempted in any manner to evade or defeat a fee, tax, or other
26 payment;

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

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

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

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

9 (e) An emergency order is effective immediately on issuance
10 and service on the license holder or resident agent of the license
11 holder, an employee, or, in cases involving registration or
12 findings of suitability, the person or entity involved or resident
13 agent of the entity involved. An emergency order may suspend,
14 limit, condition, or take other action in relation to the license,
15 registration, or suitability finding of one or more persons in an
16 operation without affecting other individual license holders or
17 persons subject to a suitability finding. An emergency order
18 remains effective until further order of the commission or final
19 disposition of the case.

20 (f) Not later than the fifth day after the date of issuance
21 of an emergency order, the executive director shall file a
22 complaint and serve it on the person involved. The person against
23 whom the emergency order has been issued and served is entitled to a
24 hearing before the commission and to judicial review of the
25 decision and order of the commission under Chapter 2001, Government
26 Code. Judicial review is under the substantial evidence rule.

27 Sec. 2004.509. ACCESS TO CRIMINAL HISTORY RECORD

1 INFORMATION. (a) The commission, the executive director, and the
2 director are entitled to conduct an investigation of and obtain
3 criminal history record information maintained by the Department of
4 Public Safety, the Federal Bureau of Investigation identification
5 division, or another law enforcement agency to assist in the
6 investigation of:

7 (1) a licensed operator or an applicant for an
8 operator's license;

9 (2) a person required to be named in a license
10 application;

11 (3) an employee of a licensed operator, if the
12 employee is or will be directly involved in poker gaming
13 operations;

14 (4) a person who manufactures or distributes poker
15 gaming equipment, or a representative of a person who manufactures
16 or distributes poker gaming equipment or supplies offered to a
17 poker card room;

18 (5) a dealer or other employee license holder or
19 applicant;

20 (6) a registered owner of an equity or creditor
21 interest in a licensed operator or an applicant for such a
22 registration;

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

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

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

1 (B) holds more than 10 percent of the stock in the
2 person;

3 (C) holds an equitable interest greater than 10
4 percent in the person;

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

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

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

12 (G) participates in managing the affairs of the
13 person; or

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

16 (b) On each anniversary of the date of issuance of an
17 operator's license, the commission shall obtain criminal history
18 record information maintained by the Department of Public Safety on
19 the licensed operator and on each holder of a 10 percent or greater
20 equity or creditor interest in the licensed operator.

21 (c) Not later than the first anniversary after the date of
22 each license renewal, the commission shall obtain criminal history
23 record information maintained by the Department of Public Safety on
24 each licensed dealer or other employee, manufacturer, or
25 distributor.

26 Sec. 2004.510. FINGERPRINTS. The commission may deny an
27 application for a license or the commission may suspend or revoke a

1 license or certificate of registration if the applicant fails on
2 request to provide a complete legible set of fingerprints of a
3 person required to be named in a license application.

4 Sec. 2004.511. DEPARTMENT OF PUBLIC SAFETY ASSISTANCE;
5 COSTS OF INVESTIGATION. (a) The executive director or the director
6 may request the cooperation of the Department of Public Safety to
7 perform a background investigation of a person listed in Section
8 2004.509. The commission shall reimburse the department for the
9 actual cost of an investigation.

10 (b) The executive director may require a person who is
11 subject to investigation to pay all costs of the investigation and
12 to provide any information, including fingerprints, necessary to
13 carry out the investigation or facilitate access to state or
14 federal criminal history record information. Payments made to the
15 executive director under this subsection shall be deposited in the
16 general revenue fund and may be used only to reimburse the
17 commission or the Department of Public Safety for the actual costs
18 of an investigation.

19 (c) Unless otherwise prohibited by law, the Department of
20 Public Safety may retain any record or information submitted to it
21 under this section. The department shall notify the executive
22 director or the director of any change in information provided to
23 the executive director or the director when the department learns
24 of the change.

25 [Sections 2004.512-2004.550 reserved for expansion]

26 SUBCHAPTER L. PENALTIES AND OFFENSES

27 Sec. 2004.551. FAILURE TO PAY FEES. (a) License fees and

1 other fees required by this chapter must be paid to the commission
2 on or before the dates provided by law for each fee.

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

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

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

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

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

17 (1) alters or misrepresents the outcome of a poker
18 game on which wagers have been made after the outcome is made sure
19 but before it is revealed to the players;

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

27 (3) claims, collects, or takes, or attempts to claim,

1 collect, or take, money or anything of value in or from a poker
2 game, with intent to defraud, without having made a wager
3 contingent on the poker game, or claims, collects, or takes an
4 amount greater than the amount won;

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

9 (5) manipulates, with the intent to cheat, a component
10 of poker gaming equipment in a manner contrary to the designed and
11 normal operational purpose for the component, with knowledge that
12 the manipulation affects the conduct or outcome of a poker game or
13 with knowledge of an event that affects the outcome of the game.

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

16 Sec. 2004.554. USE OF PROHIBITED DEVICES. (a) A person
17 commits an offense if the person, at a premises of a licensed
18 operator, uses or possesses with the intent to use a device, other
19 than a device customarily used in the conduct of poker gaming, to
20 assist in:

21 (1) projecting the outcome of a poker game; or

22 (2) analyzing the probability of the occurrence of an
23 event relating to the game.

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

26 Sec. 2004.555. USE OF COUNTERFEIT OR UNAUTHORIZED CHIPS,
27 TOKENS, PLAYING CARDS, OR OTHER DEVICES. (a) A person commits an

1 offense if the person knowingly uses counterfeit chips, tokens, or
2 playing cards in a poker game.

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

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

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

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

16 (d) A person, other than an authorized employee of a
17 licensed operator acting in furtherance of the person's employment
18 in an establishment, commits an offense if the person knowingly has
19 on the person's body or in the person's possession on or off the
20 premises a key or device known to have been designed for the purpose
21 of and suitable for opening, entering, or affecting the operation
22 of a poker gaming table, a drop box, or an electronic or mechanical
23 device connected to the table or box or for removing money or other
24 contents from the table or box.

25 (e) Possession of more than one of the devices, equipment,
26 products, or materials described in this section permits a
27 rebuttable inference that the possessor intended to use them for

1 cheating.

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

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

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

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

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

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

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

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

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

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

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

1 loss; or

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

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

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

12 Sec. 2004.560. REPORTING PENALTIES. (a) A person commits
13 an offense if the person, in a license application, in a book or
14 record required to be maintained by this chapter or a rule adopted
15 under this chapter, or in a report required to be submitted by this
16 chapter or a rule adopted under this chapter:

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

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

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

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

26 Sec. 2004.561. GAMING BY MINORS. (a) A person commits an
27 offense if the person knowingly permits an individual that the

1 person knows is younger than 21 years of age to participate in poker
2 gaming at premises at which poker gaming is conducted under a
3 license issued under this chapter.

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

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

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

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

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

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

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

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

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

26 (4) was permitted under the Texas Racing Act (Article
27 179e, Vernon's Texas Civil Statutes); [~~or~~]

1 (5) consisted entirely of participation in a drawing
2 for the opportunity to participate in a hunting, fishing, or other
3 recreational event conducted by the Parks and Wildlife Department;

4 or

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

7 SECTION 3. Section 47.06(f), Penal Code, is amended to read
8 as follows:

9 (f) It is a defense to prosecution under Subsection (a) or
10 (c) that the person owned, manufactured, transferred, or possessed
11 the gambling device, equipment, or paraphernalia for the sole
12 purpose of shipping it:

13 (1) to the premises of a licensed operator under
14 Chapter 2004, Occupations Code, at which poker gaming may be
15 conducted under the license; or

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

18 SECTION 4. Section 47.09(a), Penal Code, is amended to read
19 as follows:

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

22 (1) was authorized under:

23 (A) Chapter 2001, Occupations Code;

24 (B) Chapter 2002, Occupations Code; ~~or~~

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

27 (D) Chapter 2004, Occupations Code;

1 (2) consisted entirely of participation in the state
2 lottery authorized by Chapter 466, Government Code; or

3 (3) was a necessary incident to the operation of the
4 state lottery and was directly or indirectly authorized by:

5 (A) Chapter 466, Government Code;

6 (B) the lottery division of the Texas Lottery
7 Commission;

8 (C) the Texas Lottery Commission; or

9 (D) the director of the lottery division of the
10 Texas Lottery Commission.

11 SECTION 5. Subchapter H, Chapter 151, Tax Code, is amended
12 by adding Section 151.356 to read as follows:

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

18 SECTION 6. Section 411.108, Government Code, is amended by
19 adding Subsection (a-1) and amending Subsection (b) to read as
20 follows:

21 (a-1) The Texas Lottery Commission is entitled to obtain
22 from the department criminal history record information maintained
23 by the department that relates to a person for whom the commission
24 may request criminal history record information under Section
25 2004.509, Occupations Code.

26 (b) Criminal history record information obtained by the
27 commission under Subsection (a) or (a-1) may not be released or

1 disclosed to any person except on court order or as provided by
2 Subsection (c).

3 SECTION 7. Section 467.035(a), Government Code, is amended
4 to read as follows:

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

7 (1) a bingo commercial lessor, bingo distributor, or
8 bingo manufacturer; ~~or~~

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

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

12 SECTION 8. Article 18, Texas Racing Act (Article 179e,
13 Vernon's Texas Civil Statutes), is amended by adding Section 18.09
14 to read as follows:

15 Sec. 18.09. POKER GAMING PURSE PROCEEDS. (a) To protect the
16 public and ensure continued support for the racing industry in this
17 state, the commission shall adopt rules to establish procedures
18 governing the deposit, accounting, audit, investment, and use of
19 money required to be deposited into a purse fund under Section
20 2004.464, Occupations Code.

21 (b) Other than limited administrative expenses authorized
22 by commission rule, the money deposited into a purse fund under
23 Section 2004.464, Occupations Code, may be used only to promote the
24 racing industry in this state by providing money for competitive
25 purses.

26 SECTION 9. Not later than January 1, 2010, the Texas Lottery
27 Commission shall adopt the rules, develop the applications and

1 forms, and establish the procedures necessary to implement Chapter
2 2004, Occupations Code, as added by this Act.

3 SECTION 10. This Act takes effect September 1, 2009.