

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 2004. POKER GAMING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2004.001. SHORT TITLE; APPLICABILITY. (a) This chapter may be cited as the Poker Gaming Act of 2013.

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

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

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

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

(2) unregulated poker gaming conducted by unlicensed operators in public establishments is inimical to the public health, safety, morals, welfare, and good order, and a person in

1 this state may not offer and has no right to offer the game of poker  
2 for profit 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 conducting poker gaming and in a person distributing materials and  
21 specific equipment relating to poker gaming must be licensed and  
22 controlled to protect the public health, safety, morals, and good  
23 order and the 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 and good order and the general welfare of the people of this state;  
3 and

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

8 Sec. 2004.003. DEFINITIONS. In this chapter:

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

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

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

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

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

24 (6) "Collection fee" means the fee assessed on each  
25 communal pot in accordance with Section 2004.411.

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

27 (8) "Communal pot" means the total amount of wagers

1 collectively made during one hand of poker.

2 (9) "Company" means a corporation, partnership,  
3 limited partnership, trust, association, joint stock company,  
4 joint venture, limited liability company, or other form of business  
5 organization, but does not include a sole proprietorship or natural  
6 person.

7 (10) "Creditor interest" means a right or claim of any  
8 character against a person for the payment of money borrowed,  
9 whether secured or unsecured, matured or unmatured, liquidated or  
10 absolute, or fixed or contingent, and includes an obligation based  
11 on the person's profits or receipts.

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

15 (12) "Director" means the director of poker gaming  
16 operations of the commission.

17 (13) "Electronic poker table" means a poker gaming  
18 table, including its components, that provides multiple player  
19 positions and allows players to play against other players in the  
20 same poker game using electronic representations of cards and  
21 chips.

22 (14) "Equity interest" means a proprietary interest,  
23 right, or claim in a company that allows the holder either to vote  
24 with respect to matters of organizational governance or to  
25 participate in the profits and residual assets of the company,  
26 including common and preferred stock in a corporation, a general or  
27 limited partnership interest in a partnership, a similar interest

1 in any other form of business organization, or a warrant, right, or  
2 similar interest convertible into, or to subscribe for, a  
3 proprietary right or claim, with or without the payment of  
4 additional consideration.

5 (15) "Executive director" means the executive  
6 director of the commission.

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

10 (17) "Gross receipts" means the total amount  
11 accumulated from all:

12 (A) collection fees assessed; and

13 (B) promotion bonus fees assessed.

14 (18) "Licensed operator" means a person who holds a  
15 license issued by the commission to conduct poker gaming under this  
16 chapter.

17 (19) "Manufacturer" means:

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

21 (B) a person who converts, modifies, adds to, or  
22 removes parts from any poker gaming equipment, item, or assembly to  
23 further its promotion or sale for or use in poker gaming in this  
24 state.

25 (20) "Nonprofit organization" means an unincorporated  
26 association or a nonprofit corporation formed under the Texas  
27 Nonprofit Corporation Law, as described by Section 1.008, Business

1 Organizations Code, that:

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

5 (B) has tax-exempt status under Section 501(c),  
6 Internal Revenue Code of 1986.

7 (21) "Pari-mutuel license holder" means a person  
8 licensed to conduct wagering on a greyhound race or a horse race  
9 under the Texas Racing Act (Article 179e, Vernon's Texas Civil  
10 Statutes).

11 (22) "Player" means a patron who participates in poker  
12 gaming on the premises of a licensed operator.

13 (23) "Poker" or "poker game" means a card game in which  
14 players place a bet based on the highest or lowest ranking hand of  
15 cards held or combination of highest and lowest cards held. The  
16 term includes the game known as Texas Hold'em or any variation or  
17 combination of Texas Hold'em, but does not include blackjack,  
18 hearts, pinochle, rummy, Internet poker, video poker, or Asian card  
19 games such as Pai Gow.

20 (24) "Poker card deck" means a set of 52 cards with 13  
21 values and with each card value represented once in each of four  
22 suits: spades, hearts, diamonds, and clubs.

23 (25) "Poker gaming" means the conduct of poker games.

24 (26) "Poker gaming equipment" means any equipment or  
25 mechanical, electromechanical, or electronic contrivance,  
26 component, machine, or device, expendable supply, or other  
27 paraphernalia used in conjunction with poker gaming, including a

1 computerized system or software for enabling poker gaming or  
2 monitoring poker gaming revenue or a device for weighing or  
3 counting money. The term includes playing cards, gaming chips or  
4 tokens, or a card shuffling device, or an electronic version of any  
5 of those items, including a poker game.

6 (27) "Premises" means the area subject to the direct  
7 control of and actual use by a licensed operator to conduct poker  
8 gaming. The term includes a location or place.

9 (28) "Principal manager" means a person who, in  
10 accordance with commission rules, holds or exercises managerial,  
11 supervisory, or policy-making authority over the management or  
12 operation of a poker gaming activity that, in the commission's  
13 judgment, warrants employee licensing as a principal manager for  
14 the protection of the public interest. The term includes a key  
15 executive of a holder of a license issued under this chapter that is  
16 a company and each person controlling the holder that is a company.

17 (29) "Promotion bonus fee" means the fee assessed on  
18 each communal pot for bonus programs in accordance with Section  
19 2004.410.

20 (30) "Wager" means a bet.

21 Sec. 2004.004. STATUS OF POKER AS CLASS II GAMING. Poker  
22 gaming authorized under this chapter is considered Class II gaming  
23 under the Indian Gaming Regulatory Act (Pub. L. No. 100-497).

24 [Sections 2004.005-2004.050 reserved for expansion]

25 SUBCHAPTER B. COMMISSION POWERS AND DUTIES

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

1       (b) The commission has broad authority and shall exercise  
2 strict control and close supervision over all poker gaming  
3 conducted in this state to ensure that poker gaming is fairly  
4 conducted.

5       (c) The commission shall execute its authority through a  
6 poker gaming division established by the commission to administer  
7 this chapter.

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

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

12       Sec. 2004.053. OFFICERS AND INVESTIGATORS. The commission  
13 may employ officers or investigators the commission considers  
14 necessary to administer this chapter.

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

17       Sec. 2004.055. APPROVAL OF POKER GAMING EQUIPMENT. (a) The  
18 commission by rule shall provide procedures for the approval of  
19 poker gaming equipment for use in poker gaming in this state as  
20 authorized under this chapter.

21       (b) The commission may not approve for use in poker gaming  
22 in this state an electronic poker table or other electronic device  
23 that is capable of displaying an electromechanically or  
24 electronically simulated poker game.

25       (c) The holder of a license issued under this chapter may  
26 not:

27               (1) use, sell, or distribute poker gaming equipment

1 that has not been approved by the commission; or

2 (2) use, sell, or distribute an electronic poker table  
3 or other device described by Subsection (b).

4 Sec. 2004.056. PUBLIC INFORMATION. (a) The commission  
5 shall provide to any person on request a printed copy of this  
6 chapter and the rules applicable to the enforcement of this  
7 chapter.

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

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

13 (b) The commission shall respond to a request under  
14 Subsection (a) not later than the 60th day after the date a request  
15 is received, unless the commission determines that the request does  
16 not contain sufficient facts to provide an answer on which the  
17 requestor may rely. The commission shall request any additional  
18 information required from the requestor not later than the 10th  
19 business day after the date the request is received. If the  
20 commission requests additional information, the commission shall  
21 respond to the request not later than the 60th day after the date  
22 additional information is received pursuant to the request for  
23 additional information.

24 (c) A person who requests an advisory opinion under  
25 Subsection (a) may act in reliance on the opinion in the conduct of  
26 any activity under any license issued under this chapter if the  
27 conduct is substantially consistent with the opinion and the facts

1 stated in the request.

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

7 (e) Nothing in this section precludes the commission from  
8 requesting an attorney general's opinion under Section 402.042,  
9 Government Code. In the event the commission requests an attorney  
10 general's opinion on a matter that is the subject of an advisory  
11 opinion request under this section, the deadlines established under  
12 Subsection (b) are tolled until the 30th day following the date the  
13 attorney general's opinion is issued.

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

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

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

20 [Sections 2004.059-2004.100 reserved for expansion]

21 SUBCHAPTER C. LICENSE TO CONDUCT POKER GAMING

22 Sec. 2004.101. OPERATOR'S LICENSE REQUIRED; LOCATION AND  
23 TABLE RESTRICTIONS. (a) A person may not conduct poker gaming in  
24 the state unless the person holds an operator's license issued by  
25 the commission.

26 (b) Poker gaming conducted by a licensed operator may be  
27 conducted only on premises operating in accordance with the

1 operator's license. This subsection does not prohibit a person  
2 from playing a poker game authorized by other state law.

3 (c) A person may not own an equity interest in a location in  
4 this state at which poker gaming is conducted by a licensed operator  
5 and for which an operator's license is not in effect.

6 (d) A separate operator's license must be obtained for each  
7 location at which poker gaming is conducted.

8 (e) If a licensed operator is an Indian tribe that holds a  
9 license issued under Section 2004.103(a)(1)(B), the location at  
10 which poker gaming is conducted under the license must be on the  
11 tribe's reservation in this state.

12 (f) The commission by rule shall prescribe the maximum  
13 number of poker gaming tables a licensed operator may operate at a  
14 single location licensed by the commission.

15 Sec. 2004.102. OPERATOR'S LICENSE APPLICATION. (a) In  
16 accordance with commission rules, an applicant for an operator's  
17 license shall file with the commission an application that contains  
18 the information identified in Subsections (b) and (c) 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 a  
25 company applicant;

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

1 the license sought;

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

4 (5) if the applicant leases or will lease the premises  
5 at which the applicant intends to conduct poker gaming:

6 (A) the name and address of the lessor of the  
7 building in which the premises are located; and

8 (B) for an applicant described by Section  
9 2004.103(a)(1)(A)(i), the license number of the commercial lessor  
10 who leases the premises for the conduct of bingo under Chapter 2001;

11 (6) the number of poker tables requested for the  
12 license holder's poker gaming premises; and

13 (7) for a pari-mutuel license holder applicant, a  
14 financial statement certified by a certified public accountant  
15 demonstrating that the applicant holds gross capital assets,  
16 including land and buildings, of at least \$1 million.

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

20 (1) the person's license to conduct bingo under  
21 Chapter 2001; or

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

23 Sec. 2004.103. OPERATOR'S LICENSE: MANDATORY ISSUANCE;  
24 CONTINUED SUITABILITY. (a) The commission shall issue an  
25 operator's license to an applicant that:

26 (1) meets one of the following requirements:

27 (A) holds:

1                   (i) a license issued by the commission  
2 authorizing the applicant to conduct bingo under Chapter 2001; or

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

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

8                   (2) files the application in accordance with this  
9 chapter;

10                   (3) signs the application;

11                   (4) pays the required application fee; and

12                   (5) meets any additional requirements prescribed by  
13 the commission.

14                   (b) The commission may not issue an operator's license to an  
15 applicant unless the applicant provides the video surveillance  
16 equipment required by Section 2004.418.

17                   (c) The commission may adopt rules providing for a person's  
18 continued suitability to hold an operator's license.

19                   (d) The opportunity to hold an operator's license is a  
20 revocable privilege and not a right or property under the United  
21 States Constitution or the Texas Constitution. An applicant for or  
22 holder of an operator's license does not have a vested interest or  
23 right in a license granted under this chapter.

24                   Sec. 2004.104. NONTRANSFERABILITY. An operator's license  
25 applies only to the specific premises location identified in the  
26 license and is not transferable to another person or location.

27                   Sec. 2004.105. REGISTRATION OF INTEREST IN OPERATOR. (a)

1 Except as provided by Subsection (b), a person who directly or  
2 indirectly owns an equity interest or creditor interest in an  
3 applicant for or holder of an operator's license shall:

4 (1) register and qualify with the commission under  
5 commission rules; and

6 (2) provide information the commission finds  
7 necessary to determine the suitability and eligibility of the  
8 person to retain the interest.

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

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

13 (2) an institutional investor; or

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

16 (c) The commission shall adopt rules to implement this  
17 section, including rules establishing procedures for registration  
18 application, qualification, and renewal. A registration filed  
19 under this section must be accompanied by the required application  
20 fee.

21 Sec. 2004.106. OPERATOR'S LICENSE CONTINGENT ON LICENSE TO  
22 CONDUCT BINGO OR PARI-MUTUEL LICENSE. (a) An operator, other than  
23 an operator described by Section 2004.103(a)(1)(B), must at all  
24 times hold:

25 (1) a license issued by the commission authorizing the  
26 license holder to conduct bingo under Chapter 2001; or

27 (2) a pari-mutuel license issued by the Texas Racing

1 Commission authorizing the license holder to conduct wagering on a  
2 greyhound race or a horse race.

3 (b) The commission shall revoke an operator's license  
4 issued under Section 2004.103(a)(1)(A) if the operator's license  
5 described by Subsection (a) is canceled or revoked.

6 (c) A licensed operator shall immediately notify the  
7 commission on the expiration or suspension, cancellation, or  
8 revocation by the Texas Racing Commission of any pari-mutuel  
9 license held by the operator authorizing the operator to conduct  
10 wagering on a greyhound race or a horse race.

11 (d) The Texas Racing Commission shall notify the commission  
12 when the Texas Racing Commission suspends, cancels, or revokes a  
13 pari-mutuel license authorizing an operator to conduct wagering on  
14 a greyhound race or a horse race.

15 (e) The bingo division of the commission shall notify the  
16 poker gaming division of the commission when the bingo division  
17 suspends, cancels, or revokes a license authorizing an operator to  
18 conduct bingo or a commercial lessor license of a premises at which  
19 poker gaming is conducted.

20 [Sections 2004.107-2004.150 reserved for expansion]

21 SUBCHAPTER D. EMPLOYEE'S LICENSES

22 Sec. 2004.151. DEALER'S LICENSE REQUIRED. (a) A person may  
23 not act as a dealer unless the person holds a dealer's license.

24 (b) A licensed operator shall ensure that each dealer  
25 employed by the operator holds a dealer's license issued by the  
26 commission.

27 Sec. 2004.152. DEALER'S LICENSE APPLICATION; ISSUANCE AND

1 DISPLAY OF BADGE. (a) A dealer's license application must:

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

3 (2) contain the information the commission requires to  
4 determine the applicant's suitability and eligibility to act as a  
5 dealer; and

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

7 (b) An applicant for a dealer's license 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 (c) The commission shall conduct a criminal background  
13 check on each applicant for a dealer's license.

14 (d) Not later than the 60th day after the date the  
15 commission grants an application for a dealer's license, the  
16 commission shall issue a dealer's badge to the applicant.

17 (e) A licensed dealer must prominently display on the  
18 dealer's person the badge issued by the commission at all times when  
19 the dealer is on the premises of a licensed operator as an employee  
20 of the licensed operator.

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

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

1 ensure that the applicant or dealer:

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

3 (2) has not had a complaint alleging physical  
4 intimidation filed against the applicant or dealer with a law  
5 enforcement authority;

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

9 (4) is otherwise qualified to be licensed.

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

12 Sec. 2004.155. DENIAL, SUSPENSION, LIMITATION, OR  
13 REVOCAION OF DEALER'S LICENSE. (a) The commission may deny an  
14 application for or suspend, limit, or revoke a dealer's license for  
15 any reasonable cause.

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

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

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

3               (1) receive, directly or indirectly, any  
4 compensation, consideration, or payment of any kind relating to the  
5 conduct of gaming in any capacity requiring a license under Section  
6 2004.151, other than payment for services rendered before the  
7 suspension or revocation; or

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

10       (e) The receipt and holding of a dealer's license is a  
11 privilege and is not a right or property under the United States  
12 Constitution or the Texas Constitution. An applicant for or holder  
13 of a dealer's license does not have a vested interest or right in a  
14 license granted under this chapter.

15       Sec. 2004.156. TRAINING PROGRAM FOR LICENSED DEALERS. (a)  
16 A licensed dealer shall complete a training program in accordance  
17 with commission rule.

18       (b) A training program approved by the commission must  
19 include training related to:

20               (1) the conduct of poker gaming;

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

22               (3) the promotion of poker gaming; and

23               (4) gaming awareness, including:

24                       (A) problem or compulsive gambling;

25                       (B) cheating techniques;

26                       (C) underage gaming; and

27                       (D) criminal awareness.

1       (c) The commission by rule shall establish:

2           (1) the content and time frame of the training  
3 program;

4           (2) information related to training that must be  
5 reported to the commission; and

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

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

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

18       (c) The commission by rule shall prescribe procedures and  
19 fees for licenses issued under this section as the commission  
20 determines appropriate.

21       [Sections 2004.158-2004.200 reserved for expansion]

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

23       Sec. 2004.201. MANUFACTURER'S LICENSE. (a) A person may  
24 not engage in any activity related to the poker gaming equipment  
25 manufacturing industry in this state for which a manufacturer's  
26 license is required unless the person holds a manufacturer's  
27 license for that activity.

1       (b) The commission shall adopt rules identifying activities  
2 related to the design, manufacture, assembly, production, sale,  
3 lease, marketing, distribution, or repair of poker gaming equipment  
4 in this state for use in poker gaming authorized under this chapter  
5 that the commission determines appropriate for licensing under this  
6 section.

7       (c) A manufacturer's license is personal to the license  
8 holder and allows the holder to conduct business related to the  
9 licensed activity with any person licensed to operate poker gaming  
10 in this state.

11       Sec. 2004.202. DISTRIBUTOR'S LICENSE. (a) A person may not  
12 distribute or offer to distribute poker gaming equipment for use in  
13 poker gaming authorized under this chapter in this state unless the  
14 person holds a distributor's license under this subchapter.

15       (b) A person must obtain a distributor's license to  
16 distribute poker gaming equipment in this state to a licensed  
17 operator for use on the operator's premises.

18       (c) A distributor's license is personal to the license  
19 holder and allows the holder to conduct business with any person  
20 licensed to operate poker gaming in this state. The license is not  
21 transferable.

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

27       (b) The application must be signed by an applicant that is

1 an individual or by the presiding officer and the secretary of an  
2 applicant that is a company. Each signatory shall attest under  
3 penalties of perjury that the information contained in the  
4 application is true, correct, and complete.

5 (c) An application for a manufacturer's license or  
6 distributor's license must be accompanied by the required  
7 application fee.

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

19 (b) If the commission determines that it has reasonable  
20 grounds to believe an applicant or license holder is unsuitable to  
21 hold a manufacturer's license or distributor's license, the  
22 commission shall conduct an investigation and hearing under  
23 Subchapter J and, based on the commission's determination, may  
24 deny, suspend, limit, or revoke the license. If the applicant is an  
25 entity other than an individual, the commission may investigate  
26 equity owners of the applicant who have at least a 10 percent  
27 ownership in the applicant.

1       (c) On suspension or revocation of a license, the license  
2 holder may not perform any manufacturing activity or distribution  
3 activity requiring a license under this chapter. A holder of a  
4 manufacturer's or distributor's license that has been suspended or  
5 revoked may not receive, directly or indirectly, compensation,  
6 consideration, or payment of any kind relating to any manufacturing  
7 or distribution activity in any capacity requiring a license under  
8 this chapter, other than payment for goods provided before the  
9 suspension or revocation.

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

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

18       [Sections 2004.205-2004.250 reserved for expansion]

19       SUBCHAPTER F. TEMPORARY LICENSE; LICENSE RENEWAL

20       Sec. 2004.251. TEMPORARY LICENSE. (a) Before issuing a  
21 license under this chapter, the commission may issue a temporary  
22 license for a period not to exceed six months and may renew the  
23 temporary license as many times as the commission determines  
24 appropriate on the payment of the fee and execution of the bond, if  
25 required.

26       (b) The commission may issue a temporary license only to a  
27 person the commission believes will be qualified to hold the

1 license based on:

2 (1) the commission's review of the background  
3 investigations conducted by other state agencies or other  
4 government agencies in United States or Canadian jurisdictions with  
5 regulated poker gaming activities; and

6 (2) the commission's determination that the background  
7 investigations of the applicant failed to reveal anything that  
8 would cause the applicant not to qualify for a license in this  
9 state.

10 Sec. 2004.252. LICENSE TERM; RENEWAL. (a) A license issued  
11 under this chapter expires on the first anniversary of the date of  
12 issuance.

13 (b) A license holder may annually renew a license by  
14 complying with the commission's licensing requirements and paying  
15 the annual license fee.

16 (c) A license holder shall submit with each license renewal  
17 fee a renewal application on a form prescribed by the commission.

18 [Sections 2004.253-2004.300 reserved for expansion]

19 SUBCHAPTER G. APPLICATION AND LICENSE FEES

20 Sec. 2004.301. APPLICATION FEES. (a) Except as provided by  
21 Subsection (b), an applicant for a license required by this chapter  
22 shall pay an application fee in the amount of:

23 (1) \$1,000 for an operator's license;

24 (2) \$100 for a dealer's license;

25 (3) \$250 for a manufacturer's license; or

26 (4) \$250 for a distributor's license.

27 (b) The commission may increase an application fee if the

1 amount prescribed by Subsection (a) does not cover the commission's  
2 cost of evaluating the application and issuing a license.

3 (c) Application fees are nonrefundable and must:

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

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

11 Sec. 2004.302. LICENSE FEES. A holder of a license issued  
12 under this chapter shall annually pay the commission a license fee  
13 in the amount of:

- 14 (1) \$1,000 for an operator's license;  
15 (2) \$100 for a dealer's license;  
16 (3) \$250 for a manufacturer's license; or  
17 (4) \$250 for a distributor's license.

18 [Sections 2004.303-2004.350 reserved for expansion]

19 SUBCHAPTER H. TAXES

20 Sec. 2004.351. GROSS RECEIPTS TAX. (a) A tax is imposed on  
21 the gross receipts received in connection with the premises of a  
22 licensed operator conducting poker gaming under this chapter.

23 (b) Except as provided by Subsection (c), the tax rate is 18  
24 percent of the gross receipts received for poker gaming by a  
25 licensed operator.

26 (c) The tax rate is 16 percent of the gross receipts  
27 received for poker gaming by a licensed operator who holds a

1 pari-mutuel license described by Section 2004.103(a)(1)(A)(ii).

2 Sec. 2004.352. PAYMENT AND REPORTING OF TAX. (a) A  
3 licensed operator must electronically submit a report of each day's  
4 total gross receipts to the comptroller not later than 5 p.m. on the  
5 day following the day the gross receipts were collected.

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

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

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

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

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

26 Sec. 2004.353. POKER GAMING REVENUE FUND. (a) The poker  
27 gaming revenue fund is established as an account held outside the

1 treasury.

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

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

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

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

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

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

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

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

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

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

26 Sec. 2004.354. FAILURE TO PAY OR REPORT TAX; PENALTIES AND  
27 INTEREST. (a) A licensed operator that fails to deposit gross

1 receipts tax due and payable to the comptroller for the gross  
2 receipts collected at the operator's premises by the deadline for  
3 payment of the tax prescribed by Section 2004.352 may not conduct  
4 poker gaming at those premises until the tax is paid.

5 (b) If a person fails to report gross receipts as required  
6 by this subchapter or fails to pay to the comptroller taxes imposed  
7 under this subchapter later than the second day after the date the  
8 report or payment is due, the commission shall compute and  
9 determine the amount of taxes required to be paid and shall assess a  
10 penalty equal to five percent of the taxes owed. If the payment is  
11 not received by the 30th day after the date the gross receipts tax  
12 is due, the commission shall assess an additional penalty equal to  
13 five percent of the gross receipts tax.

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

17 (d) Interest at the rate of 10 percent a year attaches to a  
18 delinquency penalty imposed under Subsection (b), beginning on the  
19 60th day after the date the penalty is imposed.

20 Sec. 2004.355. RECOMPUTATION OF TAX. (a) If the commission  
21 is not satisfied with a tax return or the amount of tax required to  
22 be remitted under this chapter to this state by a licensed operator,  
23 the commission or the comptroller may compute and determine the  
24 amount required to be paid on the basis of:

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

27 (2) any information that the commission or comptroller

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

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

7 (c) The commission shall conduct an audit of the person's  
8 accounts as part of the investigation under Section 2004.451.

9 Sec. 2004.356. DETERMINATION IF RETURN NOT MADE. (a) If a  
10 licensed operator fails to make a required return or if a person  
11 conducts poker gaming without a license issued under this chapter,  
12 the commission shall estimate the gross receipts received by the  
13 operator or person. The estimate must cover the period:

14 (1) for which the operator failed to make a return; or  
15 (2) during which the person conducted poker gaming  
16 without a license.

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

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

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

26 Sec. 2004.357. JEOPARDY DETERMINATION. (a) If the  
27 commission believes that the collection of a gross receipts tax

1 required to be paid or the amount of a determination under Section  
2 2004.356 will be jeopardized by delay, the commission shall make a  
3 determination of the amount of the tax required to be collected,  
4 noting the finding of jeopardy on the determination. The  
5 determined amount is due and payable immediately.

6 (b) If a license holder does not pay the amount specified by  
7 a determination on or before the 20th day after the date of service  
8 of the determination on the license holder, the amount becomes  
9 final at the end of the 20th day unless the license holder files a  
10 petition for redetermination on or before the 20th day after  
11 service of notice of the determination.

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

15 Sec. 2004.358. APPLICATION OF TAX LAWS. Subtitle B, Title  
16 2, Tax Code, applies to the administration, collection, and  
17 enforcement of the gross receipts tax imposed under Section  
18 2004.351 except as modified by this chapter.

19 Sec. 2004.359. DELINQUENCY: SEIZURE AND SALE. (a) At any  
20 time before the third anniversary of the date a person becomes  
21 delinquent in the payment of a gross receipts tax imposed under this  
22 subchapter, the commission may collect the amount as provided by  
23 this section.

24 (b) The commission may order the sheriff or constable for  
25 the jurisdiction in which licensed poker gaming tables for which a  
26 gross receipts tax is delinquent to conduct the seizure and sale  
27 authorized by this section. The sheriff or constable may deduct

1 reasonable expenses from any amount realized by sale of the  
2 property.

3 (c) The commission or sheriff or constable shall seize  
4 personal or real property of the license holder that is not exempt  
5 from execution under the laws of this state and sell the property at  
6 public auction to pay the amount of taxes due, any interest or  
7 penalties due on those taxes, and any expense incurred in  
8 connection with the seizure and sale. Personal property must be  
9 seized and sold first, and real property may be seized and sold only  
10 if the sale of personal property does not produce an amount  
11 sufficient to pay the total amount of taxes, interest, or penalties  
12 due. The seizure and sale must be conducted in accordance with  
13 applicable state law.

14 Sec. 2004.360. SECURITY. (a) Not later than the fifth day  
15 after the date the licensed operator receives notice from the  
16 commission of an order approving the application for an operator's  
17 license, each operator, to secure payment of the gross receipts tax  
18 imposed under this subchapter, shall furnish to the commission  
19 security in the form and amount the commission considers  
20 appropriate, which may be in the form of:

21 (1) a cash bond;

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

24 (3) certificates of deposit;

25 (4) certificates of savings;

26 (5) United States treasury bonds; or

27 (6) subject to the approval of the commission, an

1 assignment of negotiable stocks or bonds.

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

9 (c) If a licensed operator fails to pay the gross receipts  
10 tax imposed under this subchapter, the commission may notify the  
11 licensed operator and any surety of the delinquency by jeopardy or  
12 deficiency determination. If payment is not made when due, the  
13 commission may order the forfeit of all or part of the security to  
14 cover the amount due.

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

20 [Sections 2004.361-2004.400 reserved for expansion]

21 SUBCHAPTER I. REGULATION OF POKER GAMING OPERATIONS

22 Sec. 2004.401. REGULATION OF POKER GAMING OPERATIONS. (a)  
23 The commission shall adopt rules to govern the operation of poker  
24 gaming at a licensed operator's premises as the commission  
25 determines necessary for the protection of the public health,  
26 safety, morals, and good order, of the general welfare of the people  
27 of this state, and of the reputation of this state's poker gaming

1 industry.

2 (b) The executive director shall adopt rules under this  
3 chapter consistent with provisions of Chapter 2001 governing bingo  
4 for a licensed operator that holds a license to conduct bingo. To  
5 the extent the executive director determines feasible and necessary  
6 to protect the public health, safety, and welfare and this state's  
7 financial interests, the executive director shall adopt rules that  
8 impose on the conduct of poker gaming under this chapter the same  
9 type and manner of regulation as imposed under Chapter 2001 for the  
10 conduct of bingo, including:

11 (1) restrictions on premises providers similar to  
12 Section 2001.401;

13 (2) location restrictions similar to Sections  
14 2001.402, 2001.403, and 2001.404;

15 (3) rent restrictions similar to Sections 2001.405 and  
16 2001.406;

17 (4) restrictions on persons allowed to operate or  
18 conduct poker gaming;

19 (5) authorization for joint employment of certain  
20 poker gaming employees;

21 (6) limitations on the number and duration of poker  
22 gaming occasions similar to Section 2001.419;

23 (7) authorization for two or more license holders to  
24 form an accounting unit similar to Subchapter I-1, Chapter 2001;  
25 and

26 (8) regulations relating to poker gaming accounts and  
27 the uses of poker gaming proceeds similar to Subchapter J, Chapter

1 2001.

2 Sec. 2004.402. HOURS OF OPERATION. (a) A licensed operator  
3 other than a license holder that holds a license to conduct bingo  
4 issued under Chapter 2001 may conduct poker gaming on the premises  
5 covered by the operator's license at any time.

6 (b) A licensed operator that holds a license to conduct  
7 bingo issued under Chapter 2001 may conduct poker gaming only for  
8 the duration and at the location the operator is authorized to  
9 conduct bingo under Chapter 2001 unless otherwise provided by  
10 commission rule.

11 (c) The hours of operation for poker gaming must be clearly  
12 posted in the licensed operator's poker gaming area.

13 Sec. 2004.403. TABLE LIMITS; TOURNAMENTS. (a) A licensed  
14 operator shall establish table limits for each poker gaming table.

15 (b) The licensed operator may conduct tournaments at any  
16 time the operator is authorized to conduct poker gaming and charge a  
17 buy-in fee not to exceed \$100 and a tournament registration fee not  
18 to exceed \$30.

19 Sec. 2004.404. BANK. A licensed operator shall establish  
20 on the operator's premises a bank to convert legal United States  
21 tender into chips or tokens and to convert chips or tokens into  
22 cash.

23 Sec. 2004.405. USE OF CHIPS OR TOKENS. (a) All poker  
24 gaming conducted by a licensed operator shall be conducted using  
25 chips or tokens approved by the commission.

26 (b) All chips or tokens must bear the logo of the licensed  
27 operator's premises and must be manufactured in a manner designed

1 to substantially decrease the chips' or tokens' susceptibility to  
2 counterfeiting. The commission may inspect a licensed operator's  
3 chips or tokens to confirm compliance with this section.

4 Sec. 2004.406. USE OF PLAYING CARDS. (a) Poker gaming  
5 conducted by a licensed operator shall be played with one or more  
6 poker industry standard poker card decks.

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

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

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

15 Sec. 2004.407. RULES OF PLAY. All poker rules used in poker  
16 gaming conducted by a licensed operator shall be submitted to and  
17 approved by the commission.

18 Sec. 2004.408. BOND REQUIREMENT. (a) Each employee of a  
19 licensed operator who handles cash must be bonded.

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

22 (1) submit to the commission a copy of the certificate  
23 evidencing that the employee has obtained a fidelity bond from a  
24 surety company chartered or authorized to conduct business in this  
25 state; and

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

1       Sec. 2004.409. BADGES. (a) During the operation of poker  
2 gaming, each individual licensed under this chapter shall wear in a  
3 prominently visible location on the individual's person a numbered  
4 badge issued by the commission.

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

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

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

12       (c) Each badge issued to an individual must prominently  
13 display on the front of the badge:

14           (1) capital letters identifying the license held by  
15 the individual;

16           (2) the first name of the individual;

17           (3) the picture of the individual submitted with the  
18 individual's license application;

19           (4) the badge number; and

20           (5) the expiration date of the license.

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

23       Sec. 2004.410. BONUS PROGRAMS. (a) The commission by rule  
24 shall establish promotion bonus programs for bad beat hands and  
25 other bonus programs. The programs may be statewide or limited to  
26 individual premises.

27       (b) Each licensed operator shall:

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

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

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

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

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

13           Sec. 2004.411. COLLECTION FEE. (a) Each licensed operator  
14 shall collect a collection fee on each poker hand played. The  
15 collection fee may not exceed 10 percent of the communal pot in each  
16 hand of poker played, with a maximum of \$4 per hand.

17           (b) The commission shall adopt rules necessary to  
18 administer this section.

19           Sec. 2004.412. PROMOTION BONUS FEE. (a) A promotion bonus  
20 fee may not exceed \$1 per hand.

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

25           Sec. 2004.413. CONTRIBUTION TO PURSE FUND. (a) A  
26 pari-mutuel license holder described by Section  
27 2004.103(a)(1)(A)(ii) that conducts poker gaming in this state

1 shall deposit in a purse fund two percent of the license holder's  
2 gross receipts from that poker gaming.

3 (b) Money in the purse fund may only be expended in  
4 accordance with rules adopted by the Texas Racing Commission under  
5 Section 18.09, Texas Racing Act (Article 179e, Vernon's Texas Civil  
6 Statutes).

7 Sec. 2004.414. REPORTING REQUIREMENTS. (a) A licensed  
8 operator shall keep books and records in a manner that clearly shows  
9 the total amount of gross receipts and total deposits made by all  
10 poker gaming players.

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

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

24 (d) The commission may require that a licensed operator  
25 provide the commission with a copy of the operator's federal income  
26 tax return not later than the 30th day after the date the return is  
27 filed with the federal government. The federal income tax returns

1 submitted to the commission are not public information, and  
2 publication and dissemination of the materials by the commission  
3 are prohibited.

4 Sec. 2004.415. EXCLUSION OF PERSONS. (a) The commission by  
5 rule shall provide for the maintenance of a list of persons who are  
6 to be excluded or ejected from poker gaming premises. The list may  
7 include a person whose presence in poker gaming premises is  
8 determined by the commission to pose a threat to the interests of  
9 this state, to licensed poker gaming, or to both.

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

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

16 (2) violation of or conspiracy to violate the  
17 provisions of this chapter relating to:

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

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

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

24 Sec. 2004.416. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) A  
25 licensed operator shall adopt an internal control system that:

26 (1) safeguards its assets and revenues, which must  
27 include means for recording cash transactions and balances and

1 evidences of indebtedness; and

2 (2) provides for reliable records, accounts, and  
3 reports of transactions, operations, and events, including reports  
4 to the director and the commission.

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

7 (1) assets are safeguarded;

8 (2) financial records are accurate and reliable;

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

11 (4) transactions are recorded adequately to allow  
12 proper reporting of poker gaming revenue and of fees and taxes and  
13 to maintain accountability for assets;

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

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

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

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

1 must include:

2 (1) an organizational chart depicting appropriate  
3 segregation of duties and responsibilities;

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

6 (3) a detailed narrative description of the  
7 administrative and accounting procedures designed to satisfy the  
8 requirements of Section 2004.352(a);

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

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

18 (6) other items the director may require.

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

21 Sec. 2004.417. AGE REQUIREMENTS. (a) Except as provided by  
22 Subsection (b), a person younger than 21 years of age may not:

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

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

1       (b) In accordance with commission rules and Section  
2 2001.418, the following may be present and participate in bingo  
3 games in the bingo area of a licensed operator that is separate and  
4 divided from the poker gaming area of the licensed operator's  
5 premises:

6           (1) an individual who is 18 to 20 years of age; and

7           (2) an individual who is younger than 18 years of age  
8 and is accompanied by the individual's parent or guardian.

9       Sec. 2004.418. VIDEO SURVEILLANCE AND DISPUTE RESOLUTION.

10 (a) Each licensed operator shall provide video surveillance of the  
11 poker gaming conducted at each poker gaming table as follows:

12           (1) at least two video surveillance cameras must be  
13 dedicated to each poker gaming table;

14           (2) the video cameras must have a clear, unobstructed  
15 view of the communal cards, chips, and dealers' hands; and

16           (3) the video records must be maintained for at least  
17 30 days unless a notice is received from the commission under  
18 Subsection (c), in which case the video surveillance tape recording  
19 must be maintained until the commission notifies the operator that  
20 the dispute has been resolved.

21       (b) If a player at a poker gaming table disputes the  
22 decision of the dealer regarding the final disposition of an  
23 individual game, the player may file a complaint with the licensed  
24 operator. The licensed operator shall attempt to resolve a gaming  
25 dispute immediately on receiving a complaint.

26       (c) Players in a poker game must make a formal complaint of  
27 the dispute to the commission by the end of the next business day

1 following the date the poker game was played. The commission shall  
2 notify the licensed operator immediately of the complaint, and the  
3 operator shall send to the commission a copy of any video recording  
4 related to the complaint.

5 (d) The commission shall adopt rules and develop forms for  
6 use by players for resolution of complaints submitted by players  
7 under this section.

8 (e) The commission shall establish rules for surveillance  
9 at charitable poker tournaments.

10 Sec. 2004.419. QUESTIONING AND DETENTION OF PERSONS. A  
11 licensed operator or an employee of the operator may question any  
12 person on the poker gaming premises who is suspected of violating  
13 this chapter. The licensed operator or the operator's employee is  
14 not criminally or civilly liable:

15 (1) as a result of the questioning; or

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

18 Sec. 2004.420. SERVICE OF COMPLIMENTARY ALCOHOLIC  
19 BEVERAGES PROHIBITED. A licensed operator may not serve  
20 complimentary alcoholic beverages to a player on the operator's  
21 poker gaming premises.

22 [Sections 2004.421-2004.450 reserved for expansion]

23 SUBCHAPTER J. ENFORCEMENT

24 Sec. 2004.451. INVESTIGATION. The commission may conduct  
25 an appropriate investigation to:

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

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

4           (3) aid in adopting rules;

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

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

10         Sec. 2004.452. AUDIT. (a) The commission may conduct an  
11 audit of a license holder's books and records as part of an  
12 investigation.

13         (b) If a recomputation of tax under Section 2004.355 is at  
14 issue, the commission shall conduct an audit.

15         Sec. 2004.453. COMPLAINT. (a) If after an investigation  
16 the commission is satisfied that a license, finding of suitability,  
17 or prior approval by the commission of a transaction for which  
18 approval was required or authorized under this chapter should be  
19 limited, conditioned, suspended, or revoked, or that a fine should  
20 be imposed, the executive director shall:

21           (1) initiate a hearing by filing a complaint with the  
22 commission; and

23           (2) transmit a summary of evidence that bears on the  
24 matter and the transcript of testimony at an investigative hearing  
25 conducted by or on behalf of the executive director regarding the  
26 matter.

27         (b) The complaint must:

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

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

6           (3) contain a factual allegation; and

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

9           (c) On the filing of the complaint, the executive director  
10 shall serve a copy of the complaint on the respondent either  
11 personally or by registered or certified mail at the respondent's  
12 address on file with the executive director.

13           (d) The respondent must file an answer with the executive  
14 director not later than the 30th day after the date the complaint is  
15 served.

16           Sec. 2004.454. HEARING. (a) On receipt of a complaint  
17 under this subchapter, the commission shall review all matter  
18 presented in support of the complaint and shall appoint a hearing  
19 examiner to conduct further proceedings.

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

27           (c) The commission shall review the recommendation. The

1 commission may remand the case to the hearing examiner for  
2 presentation of additional evidence on a showing of good cause as to  
3 why the evidence could not have been presented at the previous  
4 hearing.

5 (d) The commission shall accept, reject, or modify the  
6 recommendation.

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

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

15 Sec. 2004.455. JUDICIAL REVIEW. Judicial review of an  
16 order or decision of the commission may be made under Chapter 2001,  
17 Government Code. Judicial review is under the substantial evidence  
18 rule as described by Section 2001.174, Government Code.

19 Sec. 2004.456. PRIVILEGED DOCUMENTS. (a) A communication  
20 or document of an applicant or license holder that is required by  
21 law or commission rule or by a subpoena issued by the commission and  
22 that is to be made or transmitted to the commission is privileged  
23 and does not impose liability for defamation or constitute a ground  
24 for recovery in a civil action.

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

1        (c) Notwithstanding the powers granted to the commission by  
2 this chapter, the commission:

3            (1) may not release or disclose privileged  
4 information, documents, or communications provided by an applicant  
5 or license holder and required by a court order after timely notice  
6 of the proceedings has been given to the applicant or license holder  
7 without the prior written consent of the applicant or license  
8 holder;

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

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

15        Sec. 2004.457. RELEASE OF CONFIDENTIAL INFORMATION. (a)  
16 An application to a court for an order requiring the commission to  
17 release any confidential information shall be made only on a  
18 written motion delivered not later than the 10th day before the date  
19 of application to the commission, the attorney general, and all  
20 persons who may be affected by the entry of the order.

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

25        Sec. 2004.458. EMERGENCY ORDERS. (a) The commission may  
26 issue an emergency order to:

27           (1) suspend, limit, or condition a license or finding

1 of suitability; or

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

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

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

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

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

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

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

22 (e) An emergency order is effective immediately on issuance  
23 and service on the license holder or resident agent of the license  
24 holder, an employee, or, in cases involving findings of  
25 suitability, the person or entity involved or resident agent of the  
26 entity involved. An emergency order may suspend, limit, condition,  
27 or take other action in relation to the license or suitability

1 finding of one or more persons in an operation without affecting  
2 other individual license holders or persons subject to a  
3 suitability finding. An emergency order remains effective until  
4 further order of the commission or final disposition of the case.

5 (f) Not later than the fifth day after the date of issuance  
6 of an emergency order, the executive director shall file a  
7 complaint and serve it on the person involved. The person against  
8 whom the emergency order has been issued and served is entitled to a  
9 hearing before the commission and to judicial review of the  
10 decision and order of the commission under Chapter 2001, Government  
11 Code. Judicial review is under the substantial evidence rule as  
12 described by Section 2001.174, Government Code.

13 Sec. 2004.459. ACCESS TO CRIMINAL HISTORY RECORD  
14 INFORMATION. (a) The commission, the executive director, and the  
15 director are entitled to conduct an investigation of and obtain  
16 criminal history record information maintained by the Department of  
17 Public Safety, the Federal Bureau of Investigation identification  
18 division, or another law enforcement agency to assist in the  
19 investigation of:

20 (1) a licensed operator or an applicant for an  
21 operator's license;

22 (2) a person required to be named in a license  
23 application;

24 (3) an employee of a licensed operator, if the  
25 employee is or will be directly involved in poker gaming  
26 operations;

27 (4) a person who manufactures or distributes poker

1 gaming equipment, or a representative of a person who manufactures  
2 or distributes poker gaming equipment or supplies offered to a  
3 poker card room;

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

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

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

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

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

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

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

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

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

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

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

27 (b) On each anniversary of the date of issuance of an

1 operator's license, the commission shall obtain criminal history  
2 record information maintained by the Department of Public Safety on  
3 the licensed operator and on each holder of a 10 percent or greater  
4 equity or creditor interest in the licensed operator.

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

10 Sec. 2004.460. FINGERPRINTS. The commission may deny an  
11 application for a license or the commission may suspend or revoke a  
12 license if the applicant fails on request to provide a complete  
13 legible set of fingerprints of a person required to be named in a  
14 license application.

15 Sec. 2004.461. DEPARTMENT OF PUBLIC SAFETY ASSISTANCE;  
16 COSTS OF INVESTIGATION. (a) The executive director or the director  
17 may request the cooperation of the Department of Public Safety to  
18 perform a background investigation of a person listed in Section  
19 2004.459. The commission shall reimburse the department for the  
20 actual cost of an investigation.

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

1 commission or the Department of Public Safety for the actual costs  
2 of an investigation.

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

9 [Sections 2004.462-2004.500 reserved for expansion]

10 SUBCHAPTER K. PENALTIES AND OFFENSES

11 Sec. 2004.501. FAILURE TO PAY FEES. (a) License fees and  
12 other fees required by this chapter must be paid to the commission  
13 on or before the dates provided by law for each fee.

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

21 Sec. 2004.502. FAILURE TO REPORT, PAY, OR ACCOUNT FOR FEE.

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

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

26 Sec. 2004.503. FRAUD. (a) A person commits an offense if  
27 the person knowingly:

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

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

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

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

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

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

27           Sec. 2004.504. USE OF PROHIBITED DEVICES. (a) A person

1 commits an offense if the person, at a premises of a licensed  
2 operator, uses or possesses with the intent to use a device, other  
3 than a device customarily used in the conduct of poker gaming, to  
4 assist in:

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

6 (2) analyzing the probability of the occurrence of an  
7 event relating to the game.

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

10 Sec. 2004.505. USE OF COUNTERFEIT OR UNAUTHORIZED CHIPS,  
11 TOKENS, PLAYING CARDS, OR OTHER DEVICES. (a) A person commits an  
12 offense if the person knowingly uses counterfeit chips, tokens, or  
13 playing cards in a poker game.

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

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

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

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

27 (d) A person, other than an authorized employee of a

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

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

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

15 Sec. 2004.506. CHEATING. (a) A person commits an offense  
16 if the person knowingly cheats at any poker game.

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

18 Sec. 2004.507. UNAUTHORIZED OPERATION OF POKER GAMING  
19 TABLES. (a) A person commits an offense if the person operates  
20 poker gaming tables without a license issued by the commission.

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

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

25 Sec. 2004.508. POSSESSION OF UNLAWFUL DEVICES. (a) A  
26 person commits an offense if the person knowingly possesses any  
27 poker gaming device that has been manufactured, sold, or

1 distributed in violation of this chapter.

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

3 Sec. 2004.509. UNLAWFUL MANUFACTURE, SALE, OR DISTRIBUTION  
4 OF POKER GAMING EQUIPMENT. (a) A person commits an offense if the  
5 person manufactures, sells, or distributes poker tables, cards,  
6 chips, or a device intended for use in violating this chapter.

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

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

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

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

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

22 Sec. 2004.510. REPORTING PENALTIES. (a) A person commits  
23 an offense if the person, in a license application, in a book or  
24 record required to be maintained by this chapter or a rule adopted  
25 under this chapter, or in a report required to be submitted by this  
26 chapter or a rule adopted under this chapter:

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

1 be false or misleading; or

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

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

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

9 Sec. 2004.511. GAMING BY MINORS. (a) A person commits an  
10 offense if the person knowingly permits an individual that the  
11 person knows is younger than 21 years of age to participate in poker  
12 gaming at premises at which poker gaming is conducted under a  
13 license issued under this chapter.

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

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

19 Sec. 2004.512. GENERAL PENALTY; CONSPIRACY. (a) A person  
20 commits an offense if the person knowingly or wilfully violates,  
21 attempts to violate, or conspires to violate a provision of this  
22 chapter specifying a prohibited act.

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

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

27 (c) It is a defense to prosecution under this section that

1 the actor reasonably believed that the conduct:

2 (1) was permitted under Chapter 2001, Occupations  
3 Code;

4 (2) was permitted under Chapter 2002, Occupations  
5 Code;

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

9 (4) was permitted under the Texas Racing Act (Article  
10 179e, Vernon's Texas Civil Statutes); ~~or~~

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

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

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

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

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

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

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

3 (a) It is a defense to prosecution under this chapter that  
4 the conduct:

5 (1) was authorized under:

6 (A) Chapter 2001, Occupations Code;

7 (B) Chapter 2002, Occupations Code; ~~[or]~~

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

10 (D) Chapter 2004, Occupations Code;

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

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

15 (A) Chapter 466, Government Code;

16 (B) the lottery division of the Texas Lottery  
17 Commission;

18 (C) the Texas Lottery Commission; or

19 (D) the director of the lottery division of the  
20 Texas Lottery Commission.

21 SECTION 5. Section 411.108, Government Code, is amended by  
22 adding Subsection (a-2) and amending Subsection (b) to read as  
23 follows:

24 (a-2) The Texas Lottery Commission is entitled to obtain  
25 from the department criminal history record information maintained  
26 by the department that relates to a person for whom the commission  
27 may request criminal history record information under Chapter 2004,

1 Occupations Code.

2 (b) Criminal history record information obtained by the  
3 commission under Subsection (a), ~~or~~ (a-1), or (a-2) may not be  
4 released or disclosed to any person except on court order or as  
5 provided by Subsection (c).

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

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

10 (1) a bingo commercial lessor, bingo distributor, or  
11 bingo manufacturer; ~~or~~

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

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

15 SECTION 7. Section 2001.416(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A game of chance other than bingo, poker gaming  
18 conducted under Chapter 2004, or a raffle conducted under Chapter  
19 2002 may not be conducted or allowed during a bingo occasion.

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

23 Sec. 18.09. POKER GAMING PURSE PROCEEDS. (a) To protect the  
24 public and ensure continued support for the horse and greyhound  
25 racing industry in this state, the commission shall adopt rules to  
26 establish procedures governing the deposit, accounting, audit,  
27 investment, and use of money required to be deposited into a purse

1 fund under Section 2004.413, Occupations Code.

2 (b) Other than limited administrative expenses authorized  
3 by commission rule, the money deposited into a purse fund under  
4 Section 2004.413, Occupations Code, may be used only to promote the  
5 horse and greyhound racing industry in this state by providing  
6 money for competitive purses.

7 SECTION 9. Not later than January 1, 2014, the Texas Lottery  
8 Commission shall adopt the rules, develop the applications and  
9 forms, and establish the procedures necessary to implement Chapter  
10 2004, Occupations Code, as added by this Act.

11 SECTION 10. This Act takes effect September 1, 2013.