

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1454

By: Representative Cloud

For An Act To Be Entitled

AN ACT TO CLARIFY THE LAW REGARDING CASINO GAMING AND RESULTING FROM THE ARKANSAS CASINO GAMING AMENDMENT OF 2018, ARKANSAS CONSTITUTION, AMENDMENT 100; TO REVOKE THE CASINO LICENSE OF A NONFRANCHISE HOLDER CASINO LICENSEE THAT CONSTRUCTS OR ATTEMPTS TO CONSTRUCT A CASINO OR FACILITY OTHER THAN THAT DETAILED IN THE NONFRANCHISE HOLDER CASINO LICENSEE'S GAMING APPLICATION OR THAT CONDUCTS OR ATTEMPTS TO CONDUCT CASINO GAMING IN A CASINO OTHER THAN THAT DETAILED IN THE NONFRANCHISE HOLDER CASINO LICENSEE'S GAMING APPLICATION; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE LAW FROM THE ARKANSAS CASINO GAMING AMENDMENT OF 2018; TO REVOKE A NONFRANCHISE HOLDER CASINO LICENSE FOR CERTAIN ACTIONS NOT DETAILED IN THE CASINO GAMING APPLICATION; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 117, is amended to add an additional section to read as follows:

23-117-102. Nonfranchise holder casino licensee – Construction of casino not detailed in casino gaming application prohibited – Legislative



findings and intent – Exception – Definitions.

(a) The General Assembly finds that:

(1) Section 3(c) of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, provides that "[t]o fulfill the purposes of this Amendment, the Arkansas General Assembly shall from time to time enact laws...";

(2) Section 4(a) of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, provides that the Arkansas Racing Commission shall administer and regulate casino licenses and administer and enforce The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, relating to all casino licensees;

(3) Section 4(c) of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, requires the commission to adopt rules necessary to carry out the purposes of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, and to perform the duties of the commission under The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100;

(4) The commission adopted the Arkansas Casino Gaming Rules pursuant to The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100; and

(5) According to Arkansas Casino Gaming Rule 2.13(9)(b)(iv), the commission shall consider a "[d]etailed summary of [the] proposed casino including hotel, amenities, projected number of employees, and any other information the casino applicant deems relevant" in determining which applicant will receive a casino license.

(b) By enacting this section, the General Assembly expresses its intent that:

(1) The rules established by the commission were drafted to protect the state from unfair, illegal, or misrepresented applications that may be submitted by casino applicants that seek to obtain a casino license;

(2) A casino that is built or operated not in accordance with the application upon which the casino license or casino renewal license was awarded creates an unfair advantage in the bidding and proposal process of receiving a casino license or casino renewal license;

(3) Such a breach constitutes a violation of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100; and

(4) A casino license or casino renewal license obtained through misrepresentation in the application upon which the casino license or casino renewal license was awarded should be terminated, revoked, invalidated, nullified, voided, or otherwise rendered of no effect.

(c) As used in this section:

(1) "Casino" means a facility where casino gaming is conducted as authorized by The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, or as otherwise authorized by Arkansas law;

(2)(A) "Casino gaming" means dealing, operating, carrying on, conducting, maintaining, or exposing for play any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit, or any representative value.

(B) "Casino gaming" includes accepting wagers on sporting events.

(C) "Casino gaming" does not include lotteries conducted pursuant to Arkansas Constitution, Amendment 87, or the Arkansas Scholarship Lottery Act, § 23-115-101 et seq., or both;

(3) "Casino license" means a license issued by the commission to conduct casino gaming at a casino;

(4) "Casino licensee" means any individual, corporation, partnership, association, trust, or other entity holding a license issued by the commission to conduct casino gaming at a casino;

(5) "Casino renewal license" means the renewed casino license issued by the commission before the expiration of a casino license;

(6) "Facility" means the entire facility where casino gaming is conducted and all buildings, improvements, structures, and amenities adjacent to or a part of the facility where casino gaming is conducted; and

(7) "Nonfranchise holder casino licensee" means a casino licensee that does not hold a franchise to conduct horse racing under the Arkansas Horse Racing Law, § 23-110-101 et seq., or greyhound racing under the Arkansas Greyhound Racing Law, § 23-111-101 et seq.

(d) The casino license of a nonfranchise holder casino licensee shall be terminated, revoked, invalidated, nullified, voided, or otherwise rendered of no effect if the nonfranchise holder casino licensee:

(1) Constructs or attempts to construct a casino or facility that does not substantially and materially conform to the casino or facility

that is detailed in the nonfranchise holder casino licensee's casino gaming application or casino license renewal application; or

(2) Conducts or attempts to conduct casino gaming in a casino that does not substantially and materially conform to the casino that is detailed in the nonfranchise holder casino licensee's casino gaming application or casino license renewal application.

(e) A casino or facility of lesser overall square footage than that detailed in the nonfranchise holder casino licensee's casino gaming application or casino license renewal application shall not be substantially and materially conforming for the purpose of subsection (d) of this section.

(f) If any provision of this section or the application of this section to any person or circumstance is held invalid, the invalidity shall not affect any other provisions or applications of this section that can be given effect without the invalid provisions or application, and to this end, the provisions of this section are declared to be severable.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that fairness, consistency, and transparency regarding the application process and award of casino licenses, particularly in instances in which the casino licenses being sought are limited in number, of substantial revenue-generating capability, and virtually perpetual in nature, are essential for the effective operation of state government and for maintaining the public peace, health, and safety by allowing agencies, boards, and commissions to evaluate casino applicants in an equitable manner and to hold casino applicants accountable to the application by which the casino applicants procured the casino licenses; and that this act should become effective at the earliest opportunity to protect the public peace, health, and safety by not allowing one casino applicant an unfair advantage over other casino applicants in the casino application and proposal process for receiving a casino license, which would result in significant harm to the people of Arkansas for many years to come. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor,

the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.