

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1454

5 By: Representative Cloud
6

For An Act To Be Entitled

8 AN ACT TO CLARIFY THE LAW REGARDING CASINO GAMING AND
9 RESULTING FROM THE ARKANSAS CASINO GAMING AMENDMENT
10 OF 2018, ARKANSAS CONSTITUTION, AMENDMENT 100; TO
11 REVOKE THE CASINO LICENSE OF A NONFRANCHISE HOLDER
12 CASINO LICENSEE THAT CONSTRUCTS OR ATTEMPTS TO
13 CONSTRUCT A CASINO OR FACILITY OTHER THAN THAT
14 DETAILED IN THE NONFRANCHISE HOLDER CASINO LICENSEE'S
15 GAMING APPLICATION OR THAT CONDUCTS OR ATTEMPTS TO
16 CONDUCT CASINO GAMING IN A CASINO OTHER THAN THAT
17 DETAILED IN THE NONFRANCHISE HOLDER CASINO LICENSEE'S
18 GAMING APPLICATION; TO DECLARE AN EMERGENCY; AND FOR
19 OTHER PURPOSES.
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Subtitle

22 TO CLARIFY THE LAW FROM THE ARKANSAS
23 CASINO GAMING AMENDMENT OF 2018; TO
24 REVOKE A NONFRANCHISE HOLDER CASINO
25 LICENSE FOR CERTAIN ACTIONS NOT DETAILED
26 IN THE CASINO GAMING APPLICATION; AND TO
27 DECLARE AN EMERGENCY.
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31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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33 SECTION 1. Arkansas Code Title 23, Chapter 117, is amended to add an
34 additional section to read as follows:

35 23-117-102. Nonfranchise holder casino licensee – Construction of
36 casino not detailed in casino gaming application prohibited – Legislative



1 findings and intent – Exception – Definitions.

2 (a) The General Assembly finds that:

3 (1) Section 3(c) of The Arkansas Casino Gaming Amendment of
4 2018, Arkansas Constitution, Amendment 100, provides that "[t]o fulfill the
5 purposes of this Amendment, the Arkansas General Assembly shall from time to
6 time enact laws...";

7 (2) Section 4(a) of The Arkansas Casino Gaming Amendment of
8 2018, Arkansas Constitution, Amendment 100, provides that the Arkansas Racing
9 Commission shall administer and regulate casino licenses and administer and
10 enforce The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution,
11 Amendment 100, relating to all casino licensees;

12 (3) Section 4(c) of The Arkansas Casino Gaming Amendment of
13 2018, Arkansas Constitution, Amendment 100, requires the commission to adopt
14 rules necessary to carry out the purposes of The Arkansas Casino Gaming
15 Amendment of 2018, Arkansas Constitution, Amendment 100, and to perform the
16 duties of the commission under The Arkansas Casino Gaming Amendment of 2018,
17 Arkansas Constitution, Amendment 100;

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

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

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

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

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

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

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

5 (c) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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