

By: Guillen, Thompson of Harris, Longoria,  
Garcia

H.B. No. 2345

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to definitions for purposes of gambling criminal offenses  
3 and the prosecution of the criminal offenses of gambling, gambling  
4 promotion, and keeping a gambling place.

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

6 SECTION 1. Section 47.01, Penal Code, is amended by adding  
7 Subdivision (2-a) and amending Subdivision (8) to read as follows:

8 (2-a) "Economic benefit" means direct winnings from a  
9 game of skill or luck. The term does not include a benefit received  
10 before a game commences or after payment of the direct winnings from  
11 the game.

12 (8) "Private place" means a place to which the public  
13 does not have access without a valid membership, special  
14 invitation, or prior grant of permission~~[7]~~ and excludes, among  
15 other places, streets, highways, restaurants, taverns, nightclubs,  
16 schools, hospitals, and the common areas of apartment houses,  
17 hotels, motels, office buildings, transportation facilities, and  
18 shops.

19 SECTION 2. Section 47.02(b), Penal Code, is amended to read  
20 as follows:

21 (b) It is an exception to the application of ~~[a defense to~~  
22 ~~prosecution under]~~ this section that:

- 23 (1) the actor engaged in gambling in a private place;  
24 (2) no person received any economic benefit other than

1 personal winnings; and

2 (3) except for the advantage of skill or luck, the  
3 risks of losing and the chances of winning were the same for all  
4 participants.

5 SECTION 3. Section 47.03, Penal Code, is amended by adding  
6 Subsections (a-1) and (a-2) to read as follows:

7 (a-1) It is an exception to the application of Subsection  
8 (a)(1) that:

9 (1) the gambling place was located in a private place;

10 (2) the gambling place did not provide any economic  
11 benefit other than personal winnings to any person; and

12 (3) except for the advantage of skill or luck, the  
13 risks of losing and the chances of winning at the gambling place  
14 were the same for all participants.

15 (a-2) It is an exception to the application of Subsection  
16 (a)(3) that:

17 (1) the thing of value was bet or offered in a private  
18 place;

19 (2) the thing of value bet or offered did not provide  
20 any economic benefit other than personal winnings to any person;  
21 and

22 (3) except for the advantage of skill or luck, the  
23 risks of losing and the chances of winning the thing of value bet or  
24 offered were the same for all participants.

25 SECTION 4. Section 47.04(b), Penal Code, is amended to read  
26 as follows:

27 (b) It is an exception to the application of [~~affirmative~~

1 ~~defense to prosecution under]~~ this section that:

- 2           (1) the gambling occurred in a private place;
- 3           (2) no person received any economic benefit other than
- 4 personal winnings; and
- 5           (3) except for the advantage of skill or luck, the
- 6 risks of losing and the chances of winning were the same for all
- 7 participants.

8           SECTION 5. The changes in law made by this Act apply only to

9 an offense committed on or after the effective date of this Act. An

10 offense committed before the effective date of this Act is governed

11 by the law in effect on the date the offense was committed, and the

12 former law is continued in effect for that purpose. For purposes of

13 this section, an offense was committed before the effective date of

14 this Act if any element of the offense occurred before that date.

15           SECTION 6. This Act takes effect immediately if it receives

16 a vote of two-thirds of all the members elected to each house, as

17 provided by Section 39, Article III, Texas Constitution. If this

18 Act does not receive the vote necessary for immediate effect, this

19 Act takes effect September 1, 2023.