

Amend CSHB 2159 by striking all below the enacting clause and substituting the following:

SECTION 1. Section 47, Penal Code, is amended to read as follows:

Sec. 47.04. KEEPING A GAMBLING PLACE. (a) A person commits an offense if he knowingly uses or permits another to use as a gambling place any real estate, building, room, tent, vehicle, boat, or other property whatsoever owned by him or under his control, or rents or lets any such property with a view or expectation that it be so used.

(b) It is an affirmative defense to prosecution under this section that:

(1) the gambling occurred in a private place;

(2) no person received any economic benefit other than personal winnings; and

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

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

(d) This section does not apply to a member of the Kickapoo Traditional Tribe of Texas who possesses documentation of membership issued by the Bureau of Indian Affairs and the gambling activity the participants were engaged in was the game of Tic-Tac-Toe, Hangman, or Old Maid.

SECTION 2. This Act takes effect January 1, 2005.