88R13489 TYPED

By:  Guillen H.B. No. 3649

A BILL TO BE ENTITLED

AN ACT

relating to the definitions of the criminal offenses of gambling, the prosecution of the criminal offenses of gambling, gambling promotion, and keeping a gambling place.

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

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

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

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

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

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

(1)  the actor engaged in gambling 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.

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

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

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

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

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

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

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

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

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

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

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

SECTION 5.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.