

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~~[7]~~ 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

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

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

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

8 (1) the gambling place was located in a private place;
9 (2) the gambling place did not provide any economic
10 benefit other than personal winnings to any person; and

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

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

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

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

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

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

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

1 (1) the gambling occurred in a private place;

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

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

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

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