

Regular Session, 1997

HOUSE BILL NO. 2480

BY REPRESENTATIVE PERKINS

CRIME: Creates crime of gambling by computer

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AN ACT

To enact R.S. 14:90.3, relative to offenses affecting general morality; to create the crime of gambling by computer; to provide definitions; to provide penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:90.3 is hereby enacted to read as follows:

§90.3. Gambling by computer

A. The Legislature of Louisiana, desiring to protect individual rights, while at the same time affording opportunity for the fullest development of the individual and promoting the health, safety, education, and welfare of the people, including the children of this state who are our most precious and valuable resource, finds that the state has a compelling interest in protecting its citizens and children from certain activities and influences which can result in irreparable harm. The legislature has expressed its intent to develop a controlled well-regulated gaming industry. The legislature is also charged with the responsibility of protecting and assisting its citizens who suffer from compulsive or problem gaming behavior which can result from

1 the increased availability of legalized gaming activities. The legislature
2 recognizes the development of the Internet and the information super
3 highway allowing communication and exchange of information from
4 all parts of the world and freely encourages this exchange of
5 information and ideas. The legislature recognizes and encourages the
6 beneficial effects computers, computer programming, and use of the
7 Internet resources have had on the children of the state of Louisiana by
8 expanding their educational horizons. The legislature further
9 recognizes that it has an obligation and responsibility to protect its
10 citizens, and in particular its youngest citizens, from the pervasive
11 nature of gambling which can occur via the Internet and the use of
12 computers connected to the Internet. Gambling has long been
13 recognized as a crime in the state of Louisiana and despite the
14 enactment of many legalized gaming activities remains a crime.
15 Gambling which occurs via the Internet embodies the very activity that
16 the legislature seeks to prevent. The legislature further recognizes that
17 the state's constitution and that of the United States are declarations of
18 rights which the drafters intended to withstand time and address the
19 wrongs and injustices which arise in future years. The legislature
20 hereby finds and declares that it has balanced its interest in protecting
21 the citizens of this state with the protection afforded by the First
22 Amendment, and the mandates of Article XII, Section 6 of the
23 Constitution of Louisiana and that this Section is a product thereof.

24 B. Gambling by computer is the intentional conducting, or
25 directly assisting in the conducting of any game, contest, lottery, or
26 contrivance whereby a person risks the loss of anything of value in
27 order to realize a profit using any computer, computer system,

1 ~~computer network, computer software, or any server accessing the~~
2 ~~Internet, World Wide Web, or any part thereof.~~

3 C. For purposes of this Section the following definitions apply:

4 (1) "Client" means anyone using a computer to access a
5 computer server.

6 (2) "Computer" includes an electronic, magnetic, optical, or
7 other high-speed data processing device or system performing logical,
8 arithmetic, and storage functions, and includes any property, data
9 storage facility, or communications facility directly related to or
10 operating in conjunction with such device or system. "Computer" shall
11 not include an automated typewriter or typesetter, a machine designed
12 solely for word processing, or a portable hand-held calculator, nor shall
13 "computer" include any other device which might contain components
14 similar to those in computers but in which the components have the
15 sole function of controlling the device for the single purpose for which
16 the device is intended.

17 (3) "Computer network" means a set of related, remotely
18 connected devices and communication facilities including at least one
19 computer system with capability to transmit data through
20 communication facilities.

21 (4) "Computer services" means providing access to or service
22 or data from a computer, a computer system, or a computer network.

23 (5) "Computer software" means a set of computer programs,
24 procedures, and associated documentation concerned with operation of
25 a computer system.

1 (6) "Computer system" means a set of functionally related,
2 connected or unconnected, computer equipment, devices, or computer
3 software.

4 (7) "Home Page" means the index or location for each
5 computer site on the World Wide Web.

6 (8) "Internet" means the global information system that is
7 logically linked together by a globally unique address space based on
8 the Internet Protocol or its subsequent extensions, is able to support
9 communications using the Transmission Control Protocol/Internet
10 Protocol suite or its subsequent extensions, and other Internet Protocol
11 compatible protocols, and provides, uses or makes accessible, either
12 publicly or privately, high level services layered on the
13 communications and related infrastructure described herein.

14 (9) "Server" means a computer that listens for and services a
15 client.

16 (10) "World Wide Web" means a server providing connections
17 to mega lists of information on the Internet; it is made up of millions of
18 individual web sites linked together.

19 D. Whoever commits the crime of gambling by computer shall
20 be fined not more than five hundred dollars, or imprisoned for not more
21 than six months, or both.

22 E. Whoever designs, develops, manages, supervises, maintains,
23 provides, or produces any computer services, computer system,
24 computer network, computer software, or any server providing a Home
25 Page, Web Site, or any other product accessing the Internet, World
26 Wide Web, or any part thereof offering to any client the conducting of
27 any game, contest, lottery, or contrivance whereby a person risks the

1 loss of anything of value in order to realize a profit shall be fined not
 2 more than twenty thousand dollars, or imprisoned with or without hard
 3 labor, for not more than five years, or both.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Perkins

HB No. 2480

Proposed law creates the crime of gambling by computer.

Proposed law further provides definitions for clients, computers, computer networks, services, software and systems, home pages, the Internet, servers, and the World Wide Web.

Proposed law defines gambling by computer as the intentional conducting, or directly assisting in the conducting of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit using any computer, computer system, computer network, computer software, or any server accessing the Internet, World Wide Web, or any part thereof.

Proposed law further provides a penalty of gambling by computer of a fine of not more than \$500 or imprisonment for not more than six months, or both.

Proposed law provides a penalty for anyone who designs, develops, manages, supervises, maintains, provides or produces any computer services, computer system, computer network, computer software, or any server providing a Home Page, Web Site or any other product accessing the Internet, World Wide Web, or any part thereof offering to any client the conducting of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit of a fine of not more than \$20,000, or imprisonment with or without hard labor, for not more than five years, or both.

(Adds R.S. 14:90.3)