

Regular Session, 1997

HOUSE BILL NO. 2480

BY REPRESENTATIVE PERKINS

CRIME: Creates crime of gambling by computer

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

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; to provide exceptions; 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

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

1 B. Gambling by computer is the intentional conducting, or
2 directly assisting in the conducting of any game, contest, lottery, or
3 contrivance whereby a person risks the loss of anything of value in
4 order to realize a profit using any computer, computer system,
5 computer network, computer software, or any server accessing the
6 Internet, World Wide Web, or any part thereof.

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

8 (1) "Client" means anyone using a computer to access a
9 computer server.

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

21 (3) "Computer network" means a set of related, remotely
22 connected devices and communication facilities including at least one
23 computer system with capability to transmit data through
24 communication facilities.

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

1 (5) "Computer software" means a set of computer programs,
2 procedures, and associated documentation concerned with operation of
3 a computer system.

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

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

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

17 (9) "Server" means a computer that listens for and services a
18 client.

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

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

25 E. Whoever designs, develops, manages, supervises, maintains,
26 provides, or produces any computer services, computer system,

1 computer network, computer software, or any server providing a Home
2 Page, Web Site, or any other product accessing the Internet, World
3 Wide Web, or any part thereof offering to any client the conducting of
4 any game, contest, lottery, or contrivance whereby a person risks the
5 loss of anything of value in order to realize a profit shall be fined not
6 more than twenty thousand dollars, or imprisoned with or without hard
7 labor, for not more than five years, or both.

8 F. The conducting or assisting in the conducting of gaming
9 activities or operations upon a riverboat, at the official gaming
10 establishment, or by operating an electronic video draw poker device,
11 which is licensed for operation and regulated under the provisions of
12 Chapters 4, 5, and 6 of Title 27 of the Louisiana Revised Statutes of
13 1950, shall not be considered gambling by computer for the purposes
14 of this Section.

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.

Proposed law creates exceptions for gaming activities and operations on riverboats, the land-based casino and on video draw poker devices.

(Adds R.S. 14:90.3)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Adds exceptions for riverboat gaming, land-based casino gaming, and gaming conducted on video draw poker devices.