

HOUSE BILL No. 1484

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-45-5.

Synopsis: Internet gambling prohibition. Makes Internet gambling a Class B misdemeanor. Makes providing gambling through the Internet a Class D felony. Requires an interactive computer service to discontinue its service if it is notified by a law enforcement agency that the service is being used to promote professional gambling. Requires an interactive computer service to block access to a site used to promote professional gambling.

Effective: July 1, 1999.

Harris

January 19, 1999, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1484

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-45-5-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this
3 chapter:

4 **"By means of the World Wide Web" means by placement of**
5 **material in a computer server-based file archive so that it is**
6 **publicly accessible, over the Internet, using hypertext transfer**
7 **protocol, file transfer protocol, or other similar protocols.**

8 **"Interactive computer service" includes the following:**

9 (1) **An information service, system, or access software**
10 **provider that provides or enables computer access by multiple**
11 **users to a computer server.**

12 (2) **An information service, system, or access software**
13 **provider that provides access to the Internet.**

14 (3) **An information service, system, or access software**
15 **provider that is operated or offered by a library or**
16 **educational institution.**



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- 1 "Gain" means the direct realization of winnings.
- 2 "Gambling" means risking money or other property for gain,
3 contingent in whole or in part upon lot, chance, or the operation of a
4 gambling device; but it does not include participating in:
- 5 (1) bona fide contests of skill, speed, strength, or endurance in
6 which awards are made only to entrants or the owners of entries;
7 or
8 (2) bona fide business transactions that are valid under the law of
9 contracts.
- 10 "Gambling device" means:
- 11 (1) a mechanism by the operation of which a right to money or
12 other property may be credited, in return for consideration, as the
13 result of the operation of an element of chance;
14 (2) a mechanism that, when operated for a consideration, does not
15 return the same value or property for the same consideration upon
16 each operation;
17 (3) a mechanism, furniture, fixture, construction, or installation
18 designed primarily for use in connection with professional
19 gambling;
20 (4) a policy ticket or wheel; or
21 (5) a subassembly or essential part designed or intended for use
22 in connection with such a device, mechanism, furniture, fixture,
23 construction, or installation.
- 24 In the application of this definition, an immediate and unrecorded right
25 to replay mechanically conferred on players of pinball machines and
26 similar amusement devices is presumed to be without value.
- 27 "Gambling information" means:
- 28 (1) a communication with respect to a wager made in the course
29 of professional gambling; or
30 (2) information intended to be used for professional gambling.
- 31 **"Internet" refers to the combination of computer facilities and**
32 **electromagnetic transmission media, and related equipment and**
33 **software, comprising the interconnected worldwide network of**
34 **computer networks that employ the Transmission Control**
35 **Protocol/Internet Protocol, or any predecessor or successor**
36 **protocol to transmit information.**
- 37 "Profit" means a realized or unrealized benefit (other than a gain)
38 and includes benefits from proprietorship or management and unequal
39 advantage in a series of transactions.
- 40 SECTION 2. IC 35-45-5-2 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. A person who
42 knowingly or intentionally engages in gambling **by means of the**

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1 **World Wide Web or other means** commits unlawful gambling, a
2 Class B misdemeanor.

3 SECTION 3. IC 35-45-5-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A person who
5 knowingly or intentionally:

6 (1) engages in pool-selling;

7 (2) engages in bookmaking;

8 (3) maintains, in a place accessible to the public, slot machines,
9 one-ball machines or variants thereof, pinball machines that
10 award anything other than an immediate and unrecorded right of
11 replay, roulette wheels, dice tables, or money or merchandise
12 pushcards, punchboards, jars, or spindles;

13 (4) conducts lotteries, gift enterprises, or policy or numbers
14 games, or sells chances therein;

15 (5) conducts any banking or percentage games played with cards,
16 dice, or counters, or accepts any fixed share of the stakes therein;

17 **or**

18 (6) accepts, or offers to accept, for profit, money or other property
19 risked in gambling; **or**

20 **(7) engages in an activity described in subdivisions (1) through**

21 **(6) by means of the World Wide Web;**

22 commits professional gambling, a Class D felony.

23 SECTION 4. IC 35-45-5-4 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Except as
25 provided in subsection (b), a person who:

26 (1) knowingly or intentionally owns, manufactures, possesses,
27 buys, sells, rents, leases, repairs, or transports a gambling device,
28 or offers or solicits an interest in a gambling device;

29 (2) before a race, game, contest, or event on which gambling may
30 be conducted, knowingly or intentionally transmits or receives
31 gambling information by any means, or knowingly or intentionally
32 installs or maintains equipment for the transmission or receipt of
33 gambling information; **or**

34 (3) having control over the use of a place, knowingly or
35 intentionally permits another person to use the place for
36 professional gambling; **or**

37 **(4) engages in an activity described in subdivisions (1) through**
38 **(3) by means of the World Wide Web;**

39 commits promoting professional gambling, a Class D felony.

40 (b) Subsection (a)(1) does not apply to a boat manufacturer who:

41 (1) transports or possesses a gambling device solely for the
42 purpose of installing that device in a boat that is to be sold and

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1 transported to a buyer; and

2 (2) does not display the gambling device to the general public or
3 make the device available for use in Indiana.

4 (c) When a public utility is notified by a law enforcement agency
5 acting within its jurisdiction that any service, facility, or equipment
6 furnished by it is being used or will be used to violate this section, it
7 shall discontinue or refuse to furnish that service, facility, or
8 equipment, and no damages, penalty, or forfeiture, civil or criminal,
9 may be found against a public utility for an act done in compliance
10 with such a notice. This subsection does not prejudice the right of a
11 person affected by it to secure an appropriate determination, as
12 otherwise provided by law, that the service, facility, or equipment
13 should not be discontinued or refused, or should be restored.

14 **(d) When an interactive computer service is notified by a law**
15 **enforcement agency acting within its jurisdiction that a service,**
16 **facility, or equipment furnished by the interactive computer**
17 **service is being used or will be used to commit an offense under**
18 **this section, the interactive computer service shall discontinue or**
19 **refuse to furnish the service, facility, or equipment, and no**
20 **damages, penalty, or forfeiture, civil or criminal, may be found**
21 **against the interactive computer service for an act done in**
22 **compliance with the notice. This subsection does not affect the**
23 **right of a person to secure an appropriate determination that the**
24 **service, facility, or equipment must not be discontinued or refused,**
25 **or must be restored.**

26 (e) Whenever an interactive computer service is notified by a
27 law enforcement agency acting within its jurisdiction that a site or
28 area to which the interactive computer service provides access is
29 being used or will be used for the purpose of transmitting or
30 receiving gambling information in violation of Indiana law, the
31 interactive computer service shall:

- 32 (1) give reasonable notice to the subscribers of its service; and
33 (2) use all technological means possible to block access to the
34 site or area through its service.

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