

SENATE BILL No. 71

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-45-5.

Synopsis: Illegal Internet gambling sites. Makes it a Class D felony to knowingly or intentionally use the Internet to engage in unlawful gambling or professional gambling.

Effective: July 1, 2003.

Ford

January 7, 2003, read first time and referred to Committee on Economic Development and Technology.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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SENATE BILL No. 71



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 35-45-5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A person who
3 knowingly or intentionally engages in gambling commits unlawful
4 gambling.

5 (b) Except as provided in subsection (c), unlawful gambling is a
6 Class B misdemeanor.

7 (c) A person who knowingly or intentionally uses the Internet in
8 such a way as to engage in unlawful gambling:

- 9 (1) in Indiana; or
- 10 (2) with a person located in Indiana;
- 11 commits a Class D felony.

12 SECTION 2. IC 35-45-5-3 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A person who
14 knowingly or intentionally:

- 15 (1) engages in pool-selling;
- 16 (2) engages in bookmaking;
- 17 (3) maintains, in a place accessible to the public, slot machines,



1 one-ball machines or variants thereof, pinball machines that
 2 award anything other than an immediate and unrecorded right of
 3 replay, roulette wheels, dice tables, or money or merchandise
 4 pushcards, punchboards, jars, or spindles;

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

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

9 or

10 (6) accepts, or offers to accept, for profit, money or other property
 11 risked in gambling;

12 commits professional gambling, a Class D felony.

13 **(b) A person who knowingly or intentionally uses the Internet**
 14 **in such a way as to:**

15 **(1) engage in pool-selling:**

16 **(A) in Indiana; or**

17 **(B) in a transaction directly involving a person located in**
 18 **Indiana;**

19 **(2) engage in bookmaking:**

20 **(A) in Indiana; or**

21 **(B) in a transaction directly involving a person located in**
 22 **Indiana;**

23 **(3) maintain, on an Internet site accessible to residents of**
 24 **Indiana, the equivalent of:**

25 **(A) slot machines;**

26 **(B) one-ball machines or variants thereof;**

27 **(C) pinball machines that award anything other than an**
 28 **immediate and unrecorded right of replay;**

29 **(D) roulette wheels;**

30 **(E) dice tables; or**

31 **(F) money or merchandise pushcards, punchboards, jars,**
 32 **or spindles;**

33 **(4) conduct lotteries, gift enterprises, or policy or numbers**
 34 **games, or sell chances therein:**

35 **(A) in Indiana; or**

36 **(B) in a transaction directly involving a person located in**
 37 **Indiana;**

38 **(5) conduct any banking or percentage games played with the**
 39 **computer equivalent of cards, dice, or counters, or accept any**
 40 **fixed share of the stakes therein:**

41 **(A) in Indiana; or**

42 **(B) in a transaction directly involving a person located in**

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- 1 **Indiana; or**
 2 **(6) accept, or offer to accept, for profit, money or other**
 3 **property risked in gambling:**
 4 **(A) in Indiana; or**
 5 **(B) in a transaction directly involving a person located in**
 6 **Indiana;**
 7 **commits professional gambling over the Internet, a Class D felony.**
 8 SECTION 3. IC 35-45-5-4.5 IS ADDED TO THE INDIANA CODE
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 10 1, 2003]: **Sec. 4.5. (a) A prosecuting attorney or the attorney**
 11 **general may send written notice to a person who uses the Internet**
 12 **in a way described in section 2(c) or 3(b) of this chapter. The notice**
 13 **must:**
 14 **(1) specify the illegal gambling activity;**
 15 **(2) state that the operator has not more than thirty (30) days**
 16 **from the date notice is received to remove or block the illegal**
 17 **gambling activity; and**
 18 **(3) state that failure to comply with subdivision (2) may result**
 19 **in the filing of criminal charges against the person.**
 20 **The attorney general shall maintain a depository for the purpose**
 21 **of collecting, maintaining, and retaining each notice sent under this**
 22 **section. A prosecuting attorney who sends a notice under this**
 23 **section shall forward the notice to the attorney general for deposit.**
 24 **(b) The manner of service of a notice under subsection (a) shall**
 25 **be:**
 26 **(1) in compliance with Rule 4.1, 4.4, 4.6, or 4.7 of the Indiana**
 27 **Rules of Trial Procedure; or**
 28 **(2) by publication in compliance with Rule 4.13 of the Indiana**
 29 **Rules of Trial Procedure if service cannot be made under**
 30 **subdivision (1) after a diligent search for the operator of the**
 31 **Internet server.**
 32 **(c) A notice mailed under subsection (a):**
 33 **(1) is admissible in a criminal proceeding under this section;**
 34 **and**
 35 **(2) constitutes prima facie evidence that the operator had**
 36 **knowledge that illegal gambling was provided on the Internet**
 37 **server.**
 38 **(d) A person outside Indiana who transmits information on a**
 39 **computer network (as defined in IC 35-43-2-3) and who knows or**
 40 **should know that the information will be broadcast in Indiana**
 41 **submits to the jurisdiction of Indiana courts for prosecution under**
 42 **this section.**

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1 SECTION 4. [EFFECTIVE JULY 1, 2003] **IC 35-45-5-2 and**
2 **IC 35-45-5-3, both as amended by this act, apply to crimes**
3 **committed after June 30, 2003.**

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