
Public Safety Committee

HB 2881

Brief Description: Creating a new crime applicable to platforms, including internet web sites, that facilitate unauthorized gambling activity.

Sponsors: Representatives Sawyer and Vick.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Criminalizes the operation of a platform that facilitates unauthorized gambling activity in certain circumstances.
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Hearing Date: 1/30/18

Staff: Kelly Leonard (786-7147).

Background:

Gambling. Under the state Gambling Act (Act), all forms of gambling except those specifically authorized by or excluded from the Act are illegal. "Gambling" refers to staking or risking something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. Certain activities are excluded from gambling, including parimutuel betting on horse racing and bona fide contractual business transactions. The Act authorizes charities and nonprofit organizations to conduct bingo games, raffles, and amusement games. Certain promotional contests, the state lottery, and licensed sports pools are also permitted.

Several criminal statutes address illegal gambling. For example, a person is engaged in unlawful Professional Gambling when he or she acts other than in an authorized manner and pays a fee to participate in a contest of chance or other gambling activity. The penalty for Professional Gambling ranges from a class B felony to a gross misdemeanor depending on the defendant's level of involvement in the activity. In addition, a person who knowingly transmits or receives gambling information by various means, including by a telecommunications transmission system

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or the Internet, or who knowingly installs or maintains equipment for the transmission or receipt of gambling information, is guilty of a class C felony.

In 2006 Congress enacted the Unlawful Internet Gambling Enforcement Act, making it a crime to knowingly accept most forms of payment in connection with the participation of another person in unlawful Internet gambling.

Sentencing. Crimes are classified as misdemeanors, gross misdemeanors, or felonies. While there are exceptions, the classification of a crime generally determines the maximum term of confinement and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<i>Classification</i>	<i>Maximum Confinement</i>	<i>Maximum Fine</i>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act (SRA) applies and determines a specific range of sentence within the statutory maximum. Sentences for felony offenses are determined by reference to a sentencing grid. The sentencing grid provides a standard range of months for the sentence based on the severity, or "seriousness level," of the offense, and the convicted person's criminal history. Seriousness levels range from I to XVI. A high seriousness level or long criminal history will result in a longer term of confinement. In addition to the standard range, other factors may affect an offender's sentence, including: enhancements; exceptional sentences; consecutive/concurrent sentences; and alternative sentences.

Summary of Bill:

A person commits the crime of Operating a Platform that Facilitates Unauthorized Gambling Activity if the person:

- operates a platform, including an Internet website, that charges customers a fee for a service or product and on which customers may transfer virtual items with or without a charge; and
- knows or, based on the totality of the circumstances, could reasonably be expected to know, that third parties use the platform to engage in an unauthorized gambling activity involving the wager or transfer of virtual items.

"Customer" means a person with an account on the platform or a person who uses or visits the platform for the purpose of using or purchasing a product or service offered or provided by or through the platform.

"Platform" means an Internet website, service, product, or business model:

- through which the owner or operator charges customers a fee for a product or service offered or made available to customers, even if some products or services offered or made available to customers are free; and
- that involves in any respect the use, transfer, or sale of a virtual item.

"Virtual item" means a person, player, or character's appearance, accessory, or privilege in a video, computer, Internet, or electronic game, or any other type of digital or intangible object or thing, if such object or thing is capable of conversion into a currency used anywhere in the world or is capable of being accepted as a deposit by an operator of a gambling activity, in the form of a store of value, for the purposes of gambling on the Internet.

Operating a Platform that Facilitates Unauthorized Gambling Activity is a class C felony and level IV offense.

Appropriation: None.

Fiscal Note: Requested on January 24, 2018.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.