SPONSOR: Rep. Mitchell & Rep. Potter & Sen. Ennis
Reps. Brady, Carson, Hudson, J. Johnson, Miro, Mulrooney, Schwartzkopf, M. Smith, Smyk, Wilson; Sens. Bushweller, Henry, Hocker, McDowell, Townsend

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 327
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 AND TITLE 29 OF THE DELAWARE CODE RELATING TO UNDERAGE GAMBLING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 4810, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4810. Sales to certain persons prohibited; penalties.

(a) ~~No person who is under the age of 18 shall purchase a lottery ticket or participate in an Internet ticket game. No person who is under the age of 21 shall wager on the video lottery, sports lottery, table games, Internet table games or Internet video lottery. Whoever has not reached the specified age and has violated this subsection shall be guilty of a misdemeanor.~~

(1) It is unlawful for an individual who is under 18 years old to purchase a lottery ticket or participate in an Internet ticket game.

(2) It is unlawful for an individual who is under 21 years old to wager on the video lottery, sports lottery, table games, Internet table games, or Internet video lottery.

(3) A violation of paragraphs (a)(1) or (a)(2) of this section is an unclassified misdemeanor.

(4) An individual convicted of, adjudicated delinquent of, or placed on probation before judgment under § 4218 of Title 11 for violating this subsection must complete 5 hours of counseling on problem gambling.

(5) The Justice of the Peace Court has original jurisdiction over a violation of this subsection by an individual who is 18 years of age or older. The Family Court has original jurisdiction over a violation of this subsection by an individual 17 years of age or younger.

Section 2. Amend § 4811, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4811. Jurisdiction in Superior Court.

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The Superior Court ~~shall have~~ has exclusive jurisdiction of offenses under this subchapter, except for offenses under § 4810(a) of this title.

Section 3. Amend § 4218, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4218. Probation before judgment.

(a) Subject to the limitations set forth in this section, for a violation or misdemeanor offense under Title 4, 7, or 11, or for any violation or misdemeanor offense under Title 21 which is designated as a motor vehicle offense subject to voluntary assessment by § 709 of Title 21, or a violation of § 2702 of Title 14, or for violations of § 4166(d) of Title 21, or for violations of § 4172 of Title 21, or for a violation of a county or municipal code, or for a misdemeanor offense under § 4764, § 4771 or § 4774 of Title 16, or for a misdemeanor offense under § 4810(a) of Title 29, a court exercising criminal jurisdiction after accepting a guilty plea or nolo contendere plea may, with the consent of the defendant and the State, stay the entry of judgment, defer further proceedings, and place the defendant on "probation before judgment" subject to such reasonable terms and conditions as may be appropriate. The terms and conditions of any probation before judgment shall include the following requirements: (i) the defendant shall provide the court with that defendant's current address; (ii) the defendant shall promptly provide the court with written notice of any change of address; and (iii) the defendant shall appear if summoned at any hearing convened for the purpose of determining whether the defendant has violated or fulfilled the terms and conditions of probation before judgment. The terms and conditions may include any or all of the following:

(1) Ordering the defendant to pay a pecuniary penalty;

(2) Ordering the defendant to pay court costs to the State;

(3) Ordering the defendant to pay restitution;

(4) Ordering the defendant to perform community service;

(5) Ordering the defendant to refrain from contact with certain persons; and

(6) Ordering the defendant to conduct themselves in a specified manner.

The length of the period of probation before judgment shall be fixed by the court, but in no event shall the total period of probation before judgment exceed the maximum term of commitment provided by law for the offense or 1 year, whichever is greater.

Section 4. Amend § 1904, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1904. Arrest without warrant.

(a) An arrest by a peace officer without a warrant for a misdemeanor is lawful whenever the officer has reasonable ground to believe that the person to be arrested has committed a misdemeanor:

(1) In the officer's presence;

(2) Out of the officer's presence and without the State, and if law-enforcement officers of the state where the misdemeanor was committed request an arrest and the accused will not be apprehended unless immediately arrested;

(3) Out of the officer's presence and within the State for the crime of shoplifting and the arrest is based upon personal investigation at the scene of arrest and where a store employee is present who has observed the activity of the person to be arrested and that person is still present;

(4) Out of the officer's presence and within the State for any misdemeanor involving physical injury or the threat thereof or any misdemeanor involving illegal sexual contact or attempted sexual contact;

(5) Out of the officer's presence and within the State for a violation of a protective order issued by: Family Court; a court of any state, territory, or Indian nation in the United States; or a court of ~~Canada; or~~ Canada;

(6) Out of the officer's presence and within the State for any misdemeanor occurring on school ~~property.~~ property; or

(7) Out of the officer's presence and within the State for the crime of underage gambling, § 4810(a) of Title 29, and all of the following apply:

a. The arrest is based upon the officer's personal investigation at the scene of arrest.

b. A gaming employee, as defined in § 4803 of Title 29, is present who has observed the activity of the person to be arrested.

c. The person to be arrested is still present.