



CHESTER J. CULVER  
GOVERNOR

**OFFICE OF THE GOVERNOR**

PATTY JUDGE  
LT. GOVERNOR

April 24, 2009

The Honorable Michael Mauro  
Secretary of State  
State Capitol Building  
L O C A L

Dear Mr. Secretary:

I hereby transmit:

**Senate File 380**, an Act relating to the practices and procedures of the department of public safety including gaming floor or wagering area restrictions, interception of communications, and peace officers acting with federal agents, and providing penalties.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver", with a long, sweeping horizontal line extending to the right.

Chester J. Culver  
Governor

CJC:bdj

cc: Secretary of the Senate  
Chief Clerk of the House





SENATE FILE 380

AN ACT

RELATING TO THE PRACTICES AND PROCEDURES OF THE DEPARTMENT OF PUBLIC SAFETY INCLUDING GAMING FLOOR OR WAGERING AREA RESTRICTIONS, INTERCEPTION OF COMMUNICATIONS, AND PEACE OFFICERS ACTING WITH FEDERAL AGENTS, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

LEGAL AGE VIOLATIONS AT GAMING FACILITIES

Section 1. Section 99D.11, subsection 7, Code 2009, is amended to read as follows:

7. A person under the age of twenty-one years shall not make or attempt to make a pari-mutuel wager. A person who violates this subsection commits a scheduled violation under section 805.8C, subsection 5, paragraph "a".

Sec. 2. Section 99F.9, subsection 5, Code 2009, is amended to read as follows:

5. A person under the age of twenty-one years shall not make or attempt to make a wager on an excursion gambling boat, gambling structure, or in a racetrack enclosure and shall not be allowed on the gaming floor of an excursion gambling boat or gambling structure or in the wagering area, as defined in section 99D.2, or on the gaming floor of a racetrack enclosure. However, a person eighteen years of age or older may be employed to work on the gaming floor of an excursion gambling boat or gambling structure or in the wagering area or on the gaming floor of a racetrack enclosure. A person who violates this subsection with respect to making or attempting to make a wager commits a scheduled violation under section 805.8C, subsection 5, paragraph "a".

Sec. 3. Section 99F.9, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. a. A person under the age of twenty-one years shall not enter or attempt to enter the gaming floor or wagering area, as defined in section 99D.2, of a facility licensed under this chapter to operate gambling games.

b. A person under the age of twenty-one years does not violate this subsection if any of the following circumstances apply:

(1) The person is employed to work at the facility.

(2) The person is an employee or agent of the commission, the division, a distributor, or a manufacturer, and acting within the scope of the person's employment.

(3) The person is present in a racetrack enclosure and does not enter or attempt to enter the gaming floor or wagering area of the facility.

c. A person who violates this subsection commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 5, paragraph "b".

Sec. 4. Section 725.19, subsection 1, Code 2009, is amended to read as follows:

1. Any person under the age of twenty-one years shall not make or attempt to make a gambling wager, except as permitted under chapter 99B. A person who violates this subsection commits a scheduled violation under section 805.8C, subsection 5, paragraph "a".

Sec. 5. Section 805.8C, subsection 5, Code 2009, is amended to read as follows:

5. GAMBLING VIOLATIONS.

a. For violations of legal age for gambling wagering under section 99D.11, subsection 7, section 99F.9, subsection 5, and section 725.19, subsection 1, the scheduled fine is five hundred dollars. Failure to pay the fine by a person under the age of eighteen shall not result in the person being detained in a secure facility.

b. For legal age violations for entering or attempting to enter a facility under section 99F.9, subsection 5A, the scheduled fine is five hundred dollars. Failure to pay the fine by a person under the age of eighteen shall not result in

the person being detained in a secure facility.

DIVISION II

INTERCEPTION OF COMMUNICATIONS

Sec. 6. Section 808B.1, subsection 4, Code 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Electronic funds transfer information stored by a financial institution in a communication system used for the electronic storage and transfer of funds.

Sec. 7. Section 808B.1, subsection 8, Code 2009, is amended to read as follows:

8. "Oral communication" means an oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception, under circumstances justifying that expectation. An "oral communication" does not include an electronic communication.

Sec. 8. Section 808B.1, subsections 9, 11, and 12, Code 2009, are amended by striking the subsections and inserting in lieu thereof the following:

9. "Pen register" means a device or process which records or decodes dialing, routing, addressing, or signaling information, but not the contents of the communication, transmitted by an instrument or facility from which a wire or electronic communication is transmitted. "Pen register" does not include any device or process used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device or process used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

11. "Trap and trace device" means a device or process which captures the incoming electronic or other impulses which identify the originating number or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, but does not capture the contents of any communication.

12. "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the

point of reception, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of interstate or foreign communications or communications affecting interstate or foreign commerce.

Sec. 9. Section 808B.3, Code 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 3. A felony offense involving ongoing criminal conduct in violation of chapter 706A.

NEW SUBSECTION. 4. A forcible felony as defined in section 702.11.

NEW SUBSECTION. 5. A felony fugitive warrant issued in the state or involving an individual who is reasonably believed to be located within the state.

Sec. 10. Section 808B.5, Code 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 11A. A special state agent may make application to a judicial officer for the issuance of a search warrant to authorize the placement, tracking, or monitoring of a global positioning device, supported by a peace officer's oath or affirmation, which includes facts, information, and circumstances tending to establish sufficient grounds for granting the special state agent's application, and probable cause for believing the grounds exist. Upon a finding of probable cause to issue such a warrant, the judicial officer shall issue a warrant, signed by the judicial officer with the judicial officer's name of office, directed to any peace officer, commanding that the peace officer place, track, or monitor the global positioning device.

NEW SUBSECTION. 11B. Upon the request of an investigative or law enforcement officer, a judge may issue a subpoena or other court order in order to obtain information and supporting documentation regarding contemporaneous or prospective wire or electronic communications based upon a finding that a prosecuting attorney is engaged in a criminal investigation of an offense listed in section 808B.3.

NEW SUBSECTION. 11C. Notwithstanding any other provision of law, upon the request of an investigative or law enforcement officer, a judge may authorize the capture of a wire or oral communication by a pen register or trap and trace

device, if a judge finds that there is probable cause to believe that a wire or oral communication relevant to a valid search warrant will occur at any point while the warrant is in effect.

Sec. 11. Section 808B.10, unnumbered paragraph 1, Code 2009, is amended to read as follows:

A Except for emergency situations pursuant to section 808B.12, a person shall not install or use a pen register or a trap and trace device without first obtaining a search warrant or court order pursuant to either section 808B.11 or 808B.12. However, a pen register or a trap and trace device may be used or installed without court order if any of the following apply:

Sec. 12. Section 808B.11, subsection 3, paragraph c, Code 2009, is amended to read as follows:

c. The telephone number if known, ~~and~~ the physical location of the telephone line where the pen register or trap and trace device will be attached, the method for determining the location of the electronic communication, and the geographic limits of the trap and trace device.

Sec. 13. Section 808B.12, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

808B.12 EMERGENCY INSTALLATION AND USE -- SUBSEQUENT APPLICATION AND ORDER.

1. Notwithstanding any other provision of this chapter, a special state agent authorized by the prosecuting attorney or an assistant attorney general who reasonably determines that an emergency situation described in subsection 2 exists which requires the installation and use of a pen register or a trap and trace device before an order authorizing such installation and use can be obtained with due diligence, may install and use a pen register or trap and trace device, if an order approving the installation or use is applied for and issued in accordance with section 808B.11 within forty-eight hours of the installation.

2. Subsection 1 applies in the following emergency situations:

a. Immediate danger of death or serious bodily injury to a person.

b. Conspiratorial activities characteristic of organized crime.

c. Immediate threat to a national security interest.

d. Ongoing attack on a computer that constitutes a crime punishable by a term of imprisonment greater than one year.

3. In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied, or when forty-eight hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

4. The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to subsection 1 without application for the authorizing order within forty-eight hours of the installation constitutes a serious misdemeanor.

5. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

Sec. 14. Section 808B.13, subsections 4 and 5, Code 2009, are amended to read as follows:

4. A cause of action shall not lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a search warrant or court order under section 808B.11 or 808B.12.

5. A good faith reliance on a search warrant or court order under section 808B.11 or 808B.12 is a complete defense against any civil or criminal action brought under this chapter or any other statute.


#### DIVISION III

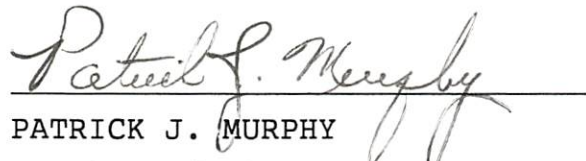
##### PEACE OFFICER SERVING AS FEDERAL ACTOR

Sec. 15. Section 80.9A, Code 2009, is amended by adding the following new subsection:


NEW SUBSECTION. 8. a. A peace officer of the department, when authorized by the commissioner, may act in concert with, under the direction of, or otherwise serve as a state actor for an officer or agent of the federal government.

b. If serving as a state actor for an officer or agent of the federal government as provided in paragraph "a", the peace officer shall be considered acting within the scope of the employee's office or employment as defined in section 669.2, subsection 1.


  
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JOHN P. KIBBIE  
President of the Senate

  
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PATRICK J. MURPHY  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 380, Eighty-third General Assembly.

  
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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved April 24<sup>th</sup>, 2009

  
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CHESTER J. CULVER  
Governor