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*Bill Analysis*  
*Legislative Service Commission*

## **S.B. 220**

126th General Assembly  
(As Introduced)

**Sens. Schuring, Armbruster, Grendell, Spada**

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### **BILL SUMMARY**

- Modifies the definition of "skill-based amusement machine" that applies to the Gambling Law by adding, to the existing criteria that must be satisfied in order for a skill-based amusement device to be within the scope of the definition, the following six additional criteria: (1) the machine only charges one price to play a task, game, play, contest, competition, or tournament, (2) the machine does not allow multiple wagers on the same task, game, play, contest, competition, or tournament to increase the payout odds, (3) the machine awards equal prizes or rewards for an equal application of skill in the completion of the task, game, play, contest, competition, or tournament and does not provide unequal prizes or rewards for an equal application of skill in the completion of the task, game, play, contest, competition, or tournament, (4) the task, game, play, contest, competition, or tournament may not be randomly selected once an individual places a wager on the task, game, play, contest, competition, or tournament, (5) the machine may not have the ability to set the percentage of wins, and (6) the machine may not have a set payout percentage accomplished by the use of a cartridge, software, chip, erasable programmable read-only memory, dip switch, or by any other means.
- Modifies the additional Gambling Law rules that apply to a machine that operates as described in the definition of "skill-based amusement machine" by: (1) additionally requiring that the prizes or rewards for the machine must be established prior to the placing of a wager by the individual utilizing the machine, and that the individual must be aware of what prize or reward will occur prior to the start of play, (2) revising a current rule to specify that, if the machine is used in a contest, competition, or tournament, the contest, competition, or tournament must

have a defined starting and ending date and be open to participants in competition for scoring and ranking results toward the awarding of prizes *without payment of additional consideration* (the italicized language replaces the existing "that are stated prior to the start of the contest, competition, or tournament"), and (3) additionally requiring that no machine may have a double-up feature or guessing game at the end of a successfully completed task, game, play, contest, competition, or tournament.

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## CONTENT AND OPERATION

### Background

R.C. Chapter 2915. contains Ohio's Gambling Law. It contains a series of prohibitions, including prohibitions that comprise the offenses of "gambling" (R.C. 2915.02), "operating a gambling house" (R.C. 2915.03), "public gaming" (R.C. 2915.04), "conducting illegal bingo" (R.C. 2915.07), "illegally operating as a distributor" (R.C. 2915.081), "illegally operating as a manufacturer" (R.C. 2915.082), "illegally conducting a bingo game" (R.C. 2915.09), "illegal instant bingo conduct" (R.C. 2915.091, 2915.094, and 2915.13), "illegal conduct of a raffle" (R.C. 2915.092), an offense related to failure to properly maintain bingo or gambling records (R.C. 2915.10), and offenses related to prohibited persons being bingo game operators (R.C. 2915.11). Many of the prohibitions pertain to specified types of conduct involving bookmaking, games of chance, schemes of chance, bingo, or betting.

### Gambling Law definition of "skill-based amusement machine"; use of the term

#### Existing law

Definition of "skill-based amusement machine". Under existing law, as used in the Gambling Law, "skill-based amusement machine" means a skill-based amusement device, such as a mechanical, electronic, video, or digital device, or machine, whether or not the skill-based amusement machine requires payment for use through a coin or bill validator or other payment of consideration or value to participate in the machine's offering or to activate the machine, provided that all of the following apply: (1) the machine involves a task, game, play, contest, competition, or tournament in which the player actively participates in the task, game, play, contest, competition, or tournament, (2) the outcome of an individual's play and participation is not determined largely or wholly by chance, and (3) the outcome of play during a game is not controlled by a person not actively participating in the game (R.C. 2915.01(AAA)(1)).

**Additional rules that apply to a machine operated as described in the definition.** Existing law specifies that all of the following apply to any machine that is operated as described in the preceding paragraph: (1) as used in R.C. 2915.01, which contains the definitions that apply to the Gambling Law, "task," "game," and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration, and an individual utilizing a machine that involves a single task, game, play, contest, competition, or tournament may be awarded prizes based on the results of play, (2) advance play for a single task, game, play, contest, competition, or tournament participation may be purchased, and the cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play, and (3) to the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of prizes that are stated prior to the start of the contest, competition, or tournament (R.C. 2915.01(AAA)(2)).

**Use of the term.** The term "skill-based amusement machine" is used in only one Revised Code section, R.C. 2915.01, which sets forth the definitions that apply to the Gambling Law. The only uses of the term in the section, other than the definition of the term itself, are in the definitions of the terms "scheme of chance" and "slot machine" that apply to the Gambling Law. Both definitions specify that skill-based amusement machines are not included within the scope of the definition (see "**Gambling Law definition of 'scheme of chance'; use of the term**" and "**Gambling Law definition of 'slot machine'; use of the term,**" below).

### **Operation of the bill**

**Definition of "skill-based amusement machine".** The bill modifies the definition of "skill-based amusement machine" that applies to the Gambling Law by adding six additional criteria that must be satisfied in order for a skill-based amusement device to be within the scope of the definition. Under the bill, "skill-based amusement machine" means a skill-based amusement device, such as a mechanical, electronic, video, or digital device, or machine, whether or not the skill-based amusement machine requires payment for use through a coin or bill validator or other payment of consideration or value to participate in the machine's offering or to activate the machine, provided that all of the following apply (R.C. 2915.01(AAA)(1)):

(1) As under existing law: (a) the machine involves a task, game, play, contest, competition, or tournament in which the player actively participates in the task, game, play, contest, competition, or tournament, (b) the outcome of an individual's play and participation is not determined largely or wholly by chance,

and (c) the outcome of play during a game is not controlled by a person not actively participating in the game.

(2) The machine only charges one price to play a task, game, play, contest, competition, or tournament (added by the bill).

(3) The machine does not allow multiple wagers on the same task, game, play, contest, competition, or tournament to increase the payout odds (added by the bill).

(4) The machine awards equal prizes or rewards for an equal application of skill in the completion of the task, game, play, contest, competition, or tournament and does not provide unequal prizes or rewards for an equal application of skill in the completion of the task, game, play, contest, competition, or tournament (added by the bill).

(5) The task, game, play, contest, competition, or tournament may not be randomly selected once an individual places a wager on the task, game, play, contest, competition, or tournament (added by the bill).

(6) The machine may not have the ability to set the percentage of wins (added by the bill).

(7) The machine may not have a set payout percentage accomplished by the use of a cartridge, software, chip, erasable programmable read-only memory, dip switch, or by any other means (added by the bill).

**Additional rules that apply to a machine operated as described in the definition.** The bill also modifies the additional rules that the Gambling Law specifies apply to a machine that operates as described in the definition of "skill-based amusement machine." Under the bill, all of the following apply to any machine that is operated as described in the definition as modified by the bill (R.C. 2915.01(AAA)(2)):

(1) As used in R.C. 2915.01, which contains the definitions that apply to the Gambling Law, "task," "game," and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single task, game, play, contest, competition, or tournament may be awarded prizes based on the results of play, *the prizes or rewards must be established prior to the individual placing a wager, and the individual must be aware of what prize or reward will occur prior to the start of play* (existing law retained by the bill, except that the italicized language is added by the bill).

(2) Advance play for a single task, game, play, contest, competition, or tournament participation may be purchased, and the cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play (existing law retained by the bill).

(3) To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of prizes *without payment of additional consideration* (existing law retained by the bill, except that the italicized language is added by the bill and replaces "that are stated prior to the start of the contest, competition, or tournament").

(4) No machine may have a double-up feature or guessing game at the end of a successfully completed task, game, play, contest, competition, or tournament (added by the bill).

**Use of the term.** The bill does not amend any other provision of law, but, by making the changes described above to the definition of "skill-based amusement machine" and to the additional rules that apply to a machine operated as described in that definition, the changes automatically are incorporated into the term "skill-based amusement machine" as it is used in the existing R.C. 2915.01 definitions of "scheme of chance" and "slot machine," as described above in "**Use of the term**" under "**Existing law.**"

#### **Gambling Law definition of "scheme of chance"; use of the term**

Existing law, unchanged by the bill, defines "scheme of chance" for purposes of the Gambling Law as a slot machine, lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but specifies that "*scheme of chance*" *does not include* bingo, a *skill-based amusement machine*, or a pool not conducted for profit (R.C. 2915.01(C)).

The term "scheme of chance" is used in one additional definition in R.C. 2915.01, in three statutes in the Gambling Law other than R.C. 2915.01, and in two statutes outside the Gambling Law. The statutes outside of the Gambling Law do not define the term or incorporate by reference the R.C. 2915.01 definition of the term. The bill does not amend the definition in R.C. 2915.01 that uses the term "scheme of chance" or any of the other statutes that use the term, but, by making the changes described above to the definition of "skill-based amusement machine" and to the additional rules that apply to a machine operated as described in that definition, the changes automatically are incorporated into the term "scheme of chance" as it is used in all of the existing statutes that use the term as it is defined

in R.C. 2915.01. The Gambling Law statutes, and the statutes outside of that Law, that use the term, and the uses that are made of the term, are as follows:

(1) R.C. 2915.01(F) defines "gambling device" for purposes of the Gambling Law as any of the following: (a) a book, totalizer, or other equipment for recording bets, (b) a ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet, (c) a deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance, (d) any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes, or (e) bingo supplies sold or otherwise provided, or used, in violation of the Gambling Law. The term "gambling device" is used in one of the prohibitions set forth in the offense of "gambling," described in the next paragraph. The only other times it is used in the Revised Code are in the portion of R.C. 2901.01(A)(13) that defines "contraband" as any of a list of specified types of property, including any "gambling device" that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in a violation of, the Gambling Law, and in the portion of the R.C. 2915.01(EE) definition of "bingo supplies" that specifies that items that are such supplies are not "gambling devices" if sold or otherwise provided, and used, in accordance with the Gambling Law.

(2) R.C. 2915.02 sets forth the offense of "gambling." In relevant part, it prohibits a person from doing any of the following: (a) engaging in bookmaking, or knowingly engaging in conduct that facilitates bookmaking, (b) establishing, promoting, or operating or knowingly engaging in conduct that facilitates any game of chance conducted for profit or *any scheme of chance*, (c) knowingly procuring, transmitting, exchanging, or engaging in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or *any scheme of chance*, (d) engaging in betting or in playing *any scheme of chance* or game of chance as a substantial source of income or livelihood, or (e) with purpose to violate clause (a), (b), (c), or (d) of this sentence, acquiring, possessing, controlling, or operating *any gambling device*. For purposes of the provision described in clause (b) of the preceding sentence, a person facilitates a game of chance conducted for profit or *a scheme of chance* if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme. The section does not prohibit conduct in connection with gambling expressly permitted by law, and does not apply to games of chance conducted in accordance with specified criteria. The offense is a misdemeanor of the first degree or, if the offender previously has been convicted of any gambling offense, a felony of the fifth degree.

(3) R.C. 2915.04 sets forth the offense of "public gaming." It prohibits a person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort from making a bet or *playing any game of chance or scheme of chance*. It also prohibits a person, being the owner or lessee, or having custody, control, or supervision, of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort from recklessly permitting those premises to be used or occupied in violation of the prohibition described in the preceding sentence (premises used or occupied in violation of this prohibition constitute a nuisance subject to abatement under R.C. Chapter 3767.). The section does not prohibit conduct in connection with gambling expressly permitted by law. The offense is a minor misdemeanor or, if the offender previously has been convicted of any gambling offense, a misdemeanor of the fourth degree.

(4) R.C. 2915.12 specifies that the Gambling Law's provisions that govern and regulate charitable bingo do not apply to bingo games that are conducted for purposes of amusement only. The section provides a list of criteria that a bingo game must satisfy in order to be considered a bingo game conducted for purposes of amusement only. One such criterion is that the bingo game cannot be conducted either during or within ten hours of any bingo session during which a charitable bingo game is conducted pursuant to R.C. 2915.07 to 2915.11, or any scheme of chance, game of chance, or bingo as described in R.C. 2915.01(S)(2).

(5) R.C. 3763.08 provides that a person who expends money or a thing of value or incurs an obligation for the purchase of or to procure a lottery or policy ticket, hazard, or chance, or an interest therein, in or on account of lottery, policy, *scheme of chance*, game of faro, pool or combination, keno, or scheme of gambling, or a person dependent for support upon or entitled to the earnings of such person, or a citizen for the use of the person so interested, may sue for and recover from the person receiving such money, thing of value, or obligation, the amount thereof, with exemplary damages, which shall not be less than fifty nor more than five hundred dollars, and may join as defendants in such suit all persons having an interest in such lottery, policy, or *scheme of chance*, or the possible profits thereof, as backers, vendors, owners, or otherwise (the section does not define "scheme of chance" or incorporate by reference the R.C. 2915.01 definition of the term).

(6) R.C. 4735.18 generally requires the Superintendent of Real Estate pursuant to R.C. 4735.051 to impose disciplinary sanctions upon any licensee who, in the licensee's capacity as a real estate broker or salesperson or in handling the licensee's own property, is found guilty of any of a list of specified type of misconduct, including having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter

into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or *scheme of chance* (the section does not define "scheme of chance" or incorporate by reference the R.C. 2915.01 definition of the term).

**Gambling Law definition of "slot machine"; use of the term**

Existing law, unchanged by the bill, defines "slot machine" for purposes of the Gambling Law as any mechanical, electronic, video, or digital device that satisfies either of the following: (1) it is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain, the outcome of which is determined largely or wholly by chance, or (2) it is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct or dispense bingo or a scheme or game of chance. "Slot machine" *does not include a skill-based amusement machine.* (R.C. 2915.01(VV).)

The term "slot machine" is used in two additional definitions in R.C. 2915.01 but is not used in any other statute. One of the uses is in the Gambling Law definition of "scheme of chance," which is set forth above in "**Gambling Law definition of "scheme of chance"; use of the term,**" and the other use is in the Gambling Law definition of "gambling device," which is set forth above in (1) under "**Gambling Law definition of "scheme of chance"; use of the term.**" The bill does not amend either of the definitions, but, by making the changes described above to the definition of "skill-based amusement machine" and to the additional rules that apply to a machine operated as described in that definition, the changes automatically are incorporated into the term "slot machine" as it is used in all of the existing provisions that use the term as it is defined in R.C. 2915.01.

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## HISTORY

ACTION	DATE
Introduced	10-27-05

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