



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 605

129th General Assembly
(As Passed by the House)

Reps. Huffman, Blessing, Antonio, Driehaus, Garland, Mallory, McClain, Murray, Stebelton, Batchelder

BILL SUMMARY

- Requires the Attorney General to adopt rules describing the types of schemes that are prohibited schemes of chance under the Gambling Law.
- Provides certain scenarios that are prohibited activities related to sweepstakes terminal devices, including cash prizes and prizes with a value over \$10.
- Permits the Bureau of Criminal Identification and Investigation to investigate criminal activity involving Gambling Law violations.

CONTENT AND OPERATION

Schemes of chance; sweepstakes terminal devices

Definitions

The bill clarifies the definition of "scheme of chance" under the Gambling Law to mean a slot machine *unless authorized under the Casino Law*, lottery *unless authorized under the Lottery Law*, 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 does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. Under the bill, a "scheme of chance" also includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:

- (1) Less than 50% of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location.

(2) Less than 50% of participants who purchase goods or services at any one location do not accept, use, or redeem the goods or services sold or purportedly sold.

(3) More than 50% of prizes at any one location are revealed to participants through use of an electronic device simulating a game of chance or a "casino game" (as defined in the Casino Law).

(4) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised.

(5) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries.

(6) A participant can use the electronic device to purchase additional game entries.

(7) A participant can purchase additional game entries by using points or credits won as prizes while using the electronic device.

(8) A scheme of chance operator pays out in prize money more than 20% of the gross revenue received at one location.

(9) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.¹

The bill defines "sweepstakes terminal device" as a mechanical, video, digital, or electronic machine or device that is owned, leased, or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device whether or not any of the following apply:

(1) The device is server-based.

(2) The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.

(3) The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.

(4) The device selects prizes from a predetermined finite pool of entries.

¹ R.C. 2915.01(C).

(5) The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.

(6) The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.

(7) The device utilizes software to create a game result.

(8) The device requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device.

(9) The device requires direct payment into the device, or remote activation of the device.

(10) The device requires purchase of a related product.

(11) Any related product of which purchase is required has legitimate value.

(12) The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.

(13) The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

(14) The device is a slot machine or other form of electrical, mechanical, or computer game.

Additionally, for the purposes of the bill:

"Enter" means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.

"Entry" means one event from the initial activation of the sweepstakes terminal device until all the sweepstakes prize results from that activation are revealed.

"Prize" means any gift, award, gratuity, good, service, credit, reward, or any other thing of value that can be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

"Sweepstakes" means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance.

"Sweepstakes" does not include bingo authorized under the Gambling Law, pari-mutuel wagering as authorized by the Horseracing Law, lotteries conducted by the State Lottery Commission as authorized by the Lottery Law, and casino gaming as authorized by the Casino Law.

"Sweepstakes terminal device facility" means any location in Ohio where a sweepstakes terminal device is provided to a sweepstakes participant.

The bill amends the definition on "conduct" under the Gambling Law to mean to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of a scheme of chance or a sweepstakes.²

Prohibited activity

The bill prohibits any person from conducting, or participating in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility and either:

(1) Giving to another person any of the following: (a) cash, gift cards, or any equivalent thereof, (b) plays on games of chance, state lottery tickets, bingo, or instant bingo, (c) firearms, tobacco, or alcoholic beverages, or (d) a redeemable voucher that is redeemable for any of the items listed in (a) through (c) as a prize for playing or participating in a sweepstakes; or

(2) Giving to another person any merchandise prize, or a redeemable voucher for a merchandise prize, the wholesale value of which is in excess of \$10 and which is awarded as a single entry for playing or participating in a sweepstakes. Redeemable vouchers must not be redeemable for a merchandise prize that has a wholesale value of more than \$10.

Also prohibited under the bill is conducting, or participating in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility without first obtaining a current annual "certificate of registration" from the Attorney General as explained below.³

The Attorney General can take any necessary and reasonable action to determine a violation of the Gambling Law, including requesting documents and information, performing inspections of premises, or requiring the attendance of any person at an examination under oath.

² R.C. 2915.01(P) and (AAA).

³ R.C. 2915.02(A)(5) and (6).

Under the bill, whoever violates the bill's provisions is guilty of gambling, a fifth degree felony for the first offense or a fourth degree felony for a subsequent offense. However, the bill states that failing to file a sweepstakes terminal device monthly report, as described below, is a first degree misdemeanor.⁴

Certificate of registration; monthly report

Any person desiring to conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility must first register with the Attorney General and obtain an annual certificate of registration by providing a filing fee and all information as required by rule adopted by the Attorney General.

Additionally, not later than the tenth day of each month, each sweepstakes terminal device operator must file a sweepstakes terminal device monthly report with the Attorney General and provide a filing fee and all information as required by rule adopted by the Attorney General.

The bill specifies that all information provided to the Attorney General under this provision must be available to law enforcement upon request.

The Attorney General must issue a certificate of registration to all persons who have successfully registered as required by the bill. The Attorney General must post online a registry of all properly registered sweepstakes terminal device operators. The Attorney General can refuse to issue an annual certificate of registration to any person or, if one has been issued, can revoke a certificate of registration if the applicant has provided any information to the Attorney General as part of a registration, monthly report, or any other information that is materially false or misleading, or if the applicant or any officer, partner, or owner of 5% or more interest in the applicant has violated any provision of the Gambling Law.⁵

Attorney General rules

The bill requires the Attorney General to adopt rules describing the types of schemes that are prohibited schemes of chance under the Gambling Law.

The Attorney General must adopt rules setting forth filing fees and required information to be submitted by persons conducting a sweepstakes with the use of a

⁴ R.C. 2915.02(H) and (I).

⁵ R.C. 2915.02(F), (G), and (H).

sweepstakes terminal device at a sweepstakes terminal device facility. The Attorney General must adopt rules to enforce the bill to ensure the integrity of sweepstakes.⁶

Bureau of Criminal Identification and Investigation

The bill permits the Bureau of Criminal Identification and Investigation to investigate any criminal activity in Ohio involving any violation of the Gambling Law.⁷

HISTORY

ACTION	DATE
Introduced	11-15-12
Reported, H. Judiciary & Ethics	12-05-12
Passed House (63-30)	12-05-12

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⁶ R.C. 2915.01(G) and (H).

⁷ R.C. 109.54(A).

