



Ohio Legislative Service Commission

Bill Analysis

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Am. Sub. S.B. 141 130th General Assembly (As Passed by the Senate)

Sens. Obhof and Hughes, Eklund, Faber, Hite, Jones, Uecker

BILL SUMMARY

- Specifies that a person who knowingly or intentionally does any of the following while participating in casino gaming or otherwise transacting with a casino facility under the Casino Control Law commits a fifth degree felony on a first offense and a fourth degree felony for a subsequent offense:
 - (1) Causes or attempts to cause a casino facility to fail to file a specified financial transaction report required under 31 U.S.C. §§5313(a) or 5325 or any regulation prescribed thereunder or R.C. 1315.53, or to fail to file a report or maintain a record required by an order issued under section 21 of the "Federal Deposit Insurance Act" or section 123 of Pub. L. No. 91-508;
 - (2) Causes or attempts to cause a casino facility to file a specified financial transaction report required under 31 U.S.C. §§5313(a) or 5325 or any regulation prescribed thereunder or R.C. 1315.53, to file a specified financial transaction report or to maintain a record required by any order issued under 31 U.S.C. §5326, or to maintain a record required under any regulation prescribed under section 21 of the "Federal Deposit Insurance Act" or section 123 of Pub. L. No. 91-508 that contains a material omission or misstatement of fact;

* This analysis has been updated to reflect current law, as amended by Sub. H.B. 7 of the 130th General Assembly. The first updated version of this analysis reflected the filing and pendency of a referendum petition regarding that bill.

- (3) Structures a transaction, as defined in R.C. 1315.51, assists in structuring a transaction, or attempts to structure or assist in structuring a transaction with one or more casino facilities.
- Expands the mandatory content of the annual report that the Casino Control Commission must file with the Governor, specified leaders of the General Assembly, and the Joint Committee on Gaming and Wagering to also require that the report include information regarding prosecutions for conduct described above in (1), (2), or (3) under the preceding dot point, and specifies that the report must cover the fiscal year that is previous to the year in which it is submitted.
- Prohibits a person or entity, in relation to any business enterprise, from conducting any sweepstakes in which the person or entity, during a calendar year for which the sweepstakes is offered, awards cash or prizes with a total value of more than 5% of the person's or entity's gross revenue for a business location for that year from the business or entity for which the person offered the sweepstakes to advertise or promote, and specifies that a violation of the prohibition is the offense of "illegal sweepstakes conduct."
- Expands the definition of "gambling offense" that applies to R.C. Chapter 2915. so that it also includes the offense of "illegal sweepstakes conduct" as described above, a violation of any existing or former municipal ordinance or law of any jurisdiction substantially equivalent to that offense, and a conspiracy or attempt to commit, or complicity in committing, that offense.
- Declares an emergency.

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CONTENT AND OPERATION

New criminal penalties for specified types of conduct related to casino gambling or a casino facility

Operation of the bill

Existing law establishes many duties and prohibitions with respect to casino gambling that is authorized in Ohio. Depending upon the prohibition and the person or entity that commits it, the sanctions for a violation of a prohibition include suspension or revocation of the casino-related license of the person or entity, a civil penalty imposed against the person, or a criminal penalty imposed against the person (see "**Background – existing casino prohibitions**," below, for a summary of the existing prohibitions and sanctions).

The bill enacts criminal penalties for a person who engages in specified types of conduct related to casino gambling or a casino facility that currently are not subjected to criminal penalties. Pursuant to a provision of existing law that is unchanged by the bill and that applies with respect to the bill's provisions, in addition to the criminal penalties, a person who is convicted of a felony under any of those provisions may be barred for life from entering a casino facility by the Casino Control Commission.¹ Under the bill, a person who knowingly or intentionally does any of the following while participating in casino gaming or otherwise transacting with a casino facility as permitted by R.C. Chapter 3772. (the Casino Control Law) commits a fifth degree felony on a first offense and a fourth degree felony for a subsequent offense:²

(1) Causes or attempts to cause a casino facility to fail to file a report required under 31 U.S.C. §§5313(a) or 5325 or any regulation prescribed thereunder or R.C. 1315.53, or to fail to file a report or maintain a record required by an order issued under section 21 of the "Federal Deposit Insurance Act" or section 123 of Pub. L. No. 91-508 (see "**Provisions of federal and state law referred to in bill**," below, for summaries of 31 U.S.C. §5313(a), 31 U.S.C. §5325, and R.C. 1315.53);

(2) Causes or attempts to cause a casino facility to file a report required under 31 U.S.C. §§5313(a) or 5325 or any regulation prescribed thereunder or R.C. 1315.53, to file a report or to maintain a record required by any order issued under 31 U.S.C. §5326, or to maintain a record required under any regulation prescribed under section 21 of the "Federal Deposit Insurance Act" or section 123 of Pub. L. No. 91-508 that contains a material omission or misstatement of fact (see "**Provisions of federal and state law**

¹ R.C. 3772.99(I).

² R.C. 3772.99(H).



referred to in bill," below, for summaries of 31 U.S.C. §5313(a), 31 U.S.C. §5325, R.C. 1315.53, and 31 U.S.C. §5326);

(3) With one or more casino facilities, "structures a transaction," is "complicit" in structuring a transaction, attempts to structure a transaction, or is complicit in an attempt to structure a transaction (see "**Definitions relevant to casino-related provisions**," below, for the definitions of "structure a transaction" and "complicit").

Provisions of federal and state law referred to in bill

(1) **31 U.S.C. §5313(a)**. 31 U.S.C. §5313(a) specifies that when a "domestic financial institution" is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the U.S. Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes by regulation, the institution and any other participant in the transaction the Secretary may prescribe must file a report on the transaction at the time and in the way the Secretary prescribes. A participant acting for another person must make the report as the agent or bailee of the person and identify the person for whom the transaction is being made.

The Secretary must exempt a "depository institution" from the reporting requirements described above with respect to transactions between the depository institution and: another depository institution; a department or agency of the United States, any state, or a political subdivision of any state; any entity established under federal law, under the law of any state or a political subdivision of any state, or under an interstate compact between two or more states, that exercises governmental authority on behalf of the United States or any such state or political subdivision; or any business or category of business the reports on which have little or no value for law enforcement purposes. The Secretary may exempt a depository institution from the reporting requirements described above with respect to transactions between the depository institution and a "qualified business customer" of the institution on the basis of information submitted to the Secretary by the institution in accordance with procedures established by the Secretary.

As used in these provisions, "financial institution" means any of 26 specified types of institutions, and "domestic financial institution" means any of those financial institutions with respect to an action of the institution in the United States. One of the specified types of institutions is a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 that either is licensed as a casino, gambling casino, or gaming establishment under the laws of any state or a political subdivision of any state, or is an Indian gaming operation conducted under or pursuant to the federal Indian Gaming Regulatory Act other than an operation that is



limited to Class I gaming. Other specified types of institutions include insured banks, commercial banks or trust companies, credit unions, securities or commodities brokers and dealers, currency exchanges, operators of a credit card system, loan and finance companies, pawnbrokers, travel agencies, etc. "Depository institution" has the same meaning as in 12 U.S.C. §461(b)(1)(A), and includes any branch, agency, or commercial lending company (as defined in 12 U.S.C. §3101), any corporation chartered under 12 U.S.C. §611, and any corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under 12 U.S.C. §§601, *et seq.* "Qualified business customer" means a business that maintains a transaction account (as defined in 12 U.S.C. §461(b)(1)(C)) at the depository institution, frequently engages in transactions with the depository institution which are subject to the reporting requirements of the preceding clause, and meets criteria that the Secretary determines are sufficient to ensure that specified purposes of federal law are carried out without requiring a report with respect to the transactions.³

(2) **31 U.S.C. §5325.** 31 U.S.C. §5325 prohibits a financial institution from issuing or selling a bank check, cashier's check, traveler's check, or money order to any individual in connection with a transaction or group of such contemporaneous transactions that involves United States coins or currency (or other monetary instruments as the U.S. Secretary of the Treasury prescribes) in amounts or denominations of \$3,000 or more unless: (a) the individual has a "transaction account" with the financial institution, and the financial institution verifies that fact through a signature card or other information maintained by the institution in connection with the account of the individual and records the method of verification in accordance with regulations that the Secretary prescribes, or (b) the individual furnishes the financial institution with forms of identification that the Secretary may require in regulations the Secretary prescribes and the financial institution verifies and records the information in accordance with regulations that the Secretary prescribes. Any information required to be recorded by any financial institution under this provision must be reported by the institution to the Secretary at the request of the Secretary.

As used in these provisions, "transaction account" means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. It includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.⁴

³ 31 U.S.C. §§5312 and 5313(a).

⁴ 12 U.S.C. §461(b)(1)(C) and 31 U.S.C. §5325.



(3) **R.C. 1315.53.** R.C. 1315.53 requires a money transmitter that is required to file a report regarding business conducted in Ohio pursuant to the federal "Currency and Foreign Transactions Reporting Act," to file a duplicate of that report with the Attorney General. It also requires all persons engaged in a trade or business, who receive more than \$10,000 in money in one transaction or who receive more than \$10,000 in money through two or more related transactions, and who are required to file returns under 20 U.S.C. §60501 and 26 C.F.R. 1.6050I, to complete and file with the Attorney General the information required by those federal provisions. A money transmitter that is regulated under the federal "Currency and Foreign Transactions Reporting Act" and that is required to make available prescribed records to the U.S. Secretary of the Treasury upon request at any time must follow the same prescribed procedures and create and maintain the same prescribed records relating to a transaction and must make those records available to the Attorney General on request at any time. The section specifies that the good faith filing of a report that it requires with the appropriate federal agency is considered compliance with the reporting requirements of the section.

The section prohibits a person from doing any of the following:

(a) Purposely violating or failing to comply with the requirements described in the preceding paragraph;

(b) With the intent to conceal or disguise the fact that money or a payment instrument is the proceeds of unlawful activity, or to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of an unlawful activity, knowingly furnishing or providing to a money transmitter, a person engaged in a trade or business, an officer, employee, agent, or authorized delegate of a money transmitter or person engaged in a trade or business, or the Attorney General, false, inaccurate, or incomplete information or knowingly concealing a material fact in connection with a transaction for which a report is required to be filed pursuant to the section;

(c) With the intent to conceal or disguise the fact that money or a payment instrument is the proceeds of unlawful activity, or to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of unlawful activity, or to avoid the making or filing of a report required under the section, or to cause the making or filing of a report required under the section that contains a material omission or misstatement, conducting or structuring or attempting to conduct or structure a transaction by or through one or more money transmitters or persons engaged in a trade or business.



A violation of this prohibition is a fourth degree felony. In addition to the criminal sanctions imposed for the violation, the sentencing court may impose upon the offender an additional fine of three times the value of the property involved in the transaction or, if no transaction is involved, \$5,000. The fine must be paid to the state treasury to the credit of the General Revenue Fund. Each transaction conducted or attempted to be conducted and each exemption from reporting claimed in violation of the section constitutes a separate, punishable offense.⁵

(4) **31 U.S.C. §5326.** 31 U.S.C. §5326 provides that, if the U.S. Secretary of the Treasury finds, upon the Secretary's own initiative or at the request of an appropriate federal or state law enforcement official, that reasonable grounds exist for concluding that additional recordkeeping and reporting requirements are necessary to carry out the purposes of 31 U.S.C. §5311 *et seq.*, and prevent evasions thereof, the Secretary may issue an order requiring any domestic financial institution or nonfinancial trade or business or group of domestic financial institutions or nonfinancial trades or businesses in a geographic area to do all of the following:

(a) Obtain such information as the Secretary describes in the order concerning any transaction in which the financial institution or nonfinancial trade or business is involved for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments as the Secretary describes in the order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe, and concerning any other person participating in such transaction;

(b) Maintain a record of the information for such period of time as the Secretary requires;

(c) File a report with respect to any transaction described in paragraph (a) in the manner and to the extent specified in the order.

The Secretary, by regulation or order, may require any "depository institution" to request any financial institution or nonfinancial trade or business (other than a depository institution) that engages in any "reportable transaction" with the depository institution to provide the depository institution with a copy of any report filed by the financial institution or nonfinancial trade or business with respect to any prior transaction (between the financial institution or nonfinancial trade or business and any other person) that involved any portion of the coins or currency (or monetary instruments) that are involved in the reportable transaction with the depository institution. The Secretary also may require, if no copy of any report described in the preceding sentence is received by the depository institution in connection with any

⁵ R.C. 1315.53 and 1315.99.

reportable transaction to which that provision applies, to submit (in addition to any report required with respect to the reportable transaction) a written notice to the Secretary that the financial institution or nonfinancial trade or business failed to provide a copy of the report.

As used in these provisions, "reportable transaction" means any transaction involving coins or currency (or other monetary instruments as the Secretary describes in the regulation or order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary prescribes. "Depository institution" means any national bank, any state bank, any federal branch and insured branch, any federal savings association, any state savings association, any corporation (other than a bank) that the Board of Directors and the Comptroller of the Currency jointly determine to be operating in substantially the same manner as a savings association, and any former savings association.

Definitions relevant to casino-related provisions

As used in the bill's casino-related provisions, "**structure a transaction**" means dividing a "transaction" that otherwise would be reportable under R.C. Chapter 1315. (which includes Ohio's Transaction Reporting and Money Laundering Laws and R.C. 1315.53, as described above in (3) under "**Provisions of federal and state law referred to in bill**") into two or more transactions that, if considered separately, would not be reportable. "Transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase or sale of a "payment instrument," use of a safe deposit box, or any other acquisition or disposition of "property." "Payment instrument" means a check, draft, money order, travelers check, or other instrument or order for the transmission or payment of money, sold to one or more persons, whether or not that instrument or order is negotiable. "Payment instrument" does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit. "Property" means anything of value and includes an interest in property, including a benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible.⁶

As used in the bill's casino-related provisions, to be "**complicit**" means to engage in any conduct of a type described in R.C. 2923.03(A)(1) to (4).⁷ R.C. 2923.03, not in the bill, sets forth the offense of "complicity" in the commission of an offense. R.C.

⁶ R.C. 3772.99(J), by reference to R.C. 1315.51, not in the bill.

⁷ R.C. 3772.99(J).



2923.03(A)(1) to (4) prohibits a person, acting with the type of culpability required for the commission of an offense, from doing any of the following: (1) soliciting or procuring another to commit the offense, (2) aiding or abetting another in committing the offense, (3) conspiring with another to commit the offense in violation of R.C. 2923.01, or (4) causing an innocent or irresponsible person to commit the offense.

Annual report of the Casino Control Commission

Existing law requires the Casino Control Commission to submit a written annual report containing specified information to the Governor, President and Minority Leader of the Senate, Speaker and Minority Leader of the House of Representatives, and Joint Committee on Gaming and Wagering before September 1 each year. The annual report must include: a statement describing the receipts and disbursements of the Commission; relevant financial data regarding casino gaming (including gross revenues and disbursements made under the Casino Control Law); actions taken by the Commission; an update on casino operators', management companies', and holding companies' compulsive and problem gambling plans and the voluntary exclusion program and list; and any additional information that the Commission considers useful or that the Governor, President or Minority Leader of the Senate, Speaker or Minority Leader of the House of Representatives, or Joint Committee on Gaming and Wagering requests.

The bill modifies this requirement in two ways. First, it expands the mandatory content of the report to also require that the report include information regarding prosecutions for conduct described above in (1), (2), or (3) under "**New criminal penalties for specified types of conduct related to casino gambling or a casino facility**," as enacted by the bill. Second, it specifies that the report must cover the fiscal year that is previous to the year in which it is submitted.⁸

Offense of "illegal sweepstakes conduct"

Prohibition, penalty, and rules

Recently enacted statutory law regulates the conduct of sweepstakes and provides penalties for persons who violate any of the prohibitions included within the regulatory mechanism (see "**Background – Sub. H.B. 7 sweepstakes provisions**," below). It also regulates the conduct of schemes of chance involving the use of an electronic device to reveal the results of a game entry (see "**Background – existing and Sub. H.B. 7 scheme of chance prohibitions**," below). Both of those regulatory mechanisms were enacted in Sub. H.B. 7 of the 130th General Assembly (hereafter, Sub.

⁸ R.C. 3772.03(J).



H.B. 7) and took effect on October 4, 2013. The bill enacts a new sweepstakes-related prohibition and penalties.

The bill prohibits a person or entity, in relation to any "business enterprise," from conducting any "sweepstakes" in which the person or entity, during a calendar year for which the sweepstakes is offered, awards cash or prizes that have a total value of more than 5% of the person's or entity's gross revenue for a business location for that year from the business or entity for which the person offered the sweepstakes to advertise or promote (see below for definitions of the terms in quotation marks). A violation of this prohibition is the offense of "illegal sweepstakes conduct." The offense generally is a first degree misdemeanor, but if the offender previously has been convicted of any "gambling offense" (see "**Inclusion as a gambling offense**," below) it is a fifth degree felony.

The bill authorizes the Attorney General (the AG) to adopt rules for the efficient enforcement of and to ensure compliance with the provisions described above, including, but not limited to, the aggregation of the gross revenue of multijurisdictional locations offering marketing programs in the form of food or other trade goods. It also authorizes the AG to assess reasonable fees related to compliance with any rules so adopted.⁹

As used in these provisions:¹⁰

"**Sweepstakes**" means any game, contest, advertising scheme or plan, or other promotion for which 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: (1) bingo as authorized under R.C. Chapter 2915. (the Gambling Law), (2) pari-mutuel wagering as authorized by R.C. Chapter 3769., (3) lotteries conducted by the State Lottery Commission as authorized by R.C. Chapter 3770., (4) casino gaming as authorized by R.C. Chapter 3772., or (5) prizes awarded by any business enterprise conducted at any location for less than 13 days per calendar year. (See **COMMENT.**)

"**Business enterprise**" means any enterprise whether conducted for profit or not for profit. As used in this definition, "**enterprise**" includes any individual, sole proprietorship, partnership, limited partnership, corporation, trust, union, government agency, or other legal entity, or any organization, association, or group of persons associated in fact although not a legal entity; it includes illicit as well as licit enterprises.

⁹ R.C. 2915.021(B) to (D).

¹⁰ R.C. 2915.021(A); and by reference to R.C. 2923.31, not in the bill.



Inclusion as a gambling offense

The bill expands the definition of "gambling offense" that applies to R.C. Chapter 2915. so that it also includes: (1) the offense of "illegal sweepstakes conduct" it creates, as described above, (2) a violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States substantially equivalent to that offense, and (3) a conspiracy or attempt to commit, or complicity in committing, that offense.¹¹

Thirteen existing Revised Code sections, in addition to R.C. 2915.01, use the term "gambling offense." Eleven of those sections use the R.C. 2915.01 definition of the term. The other two sections do not use the R.C. 2915.01 definition and do not otherwise define the term. The sections that use the R.C. 2915.01 definition of the term: provide an increased penalty for, respectively, the offenses of "gambling," "operating a gambling house," "public gambling," and "cheating" if the offender previously has been convicted of a gambling offense;¹² authorize the AG to refuse to issue a bingo supply distributor license or a bingo supply manufacturer's license to a person if the person, or an officer or partner of the person, has been convicted of a gambling offense;¹³ prohibit a charitable organization that conducts a bingo game from permitting a person that the organization knows, or should know, has been convicted of a gambling offense to be a bingo game operator;¹⁴ prohibit a charitable organization that conducts instant bingo from permitting a person that the organization knows, or should know, has been convicted of a gambling offense to be a bingo game operator in the conduct of instant bingo;¹⁵ prohibit a person who has been convicted of a gambling offense from being a bingo game operator;¹⁶ restrict ownership or operation of, and employment at, a horse racing track satellite facility for a person convicted of a felony gambling offense;¹⁷ and authorize the Liquor Control Commission, in specified circumstances, to suspend or revoke the permit of a permit holder who has committed a gambling offense at the permit premises.¹⁸ The sections that do not use the R.C. 2915.01 definition and do not otherwise define the term prohibit a person who has been convicted of a gambling

¹¹ R.C. 2915.01(G).

¹² R.C. 2915.02, 2915.03, 2915.04, and 2915.05, not in the bill.

¹³ R.C. 2915.081 and 2915.082, not in the bill.

¹⁴ R.C. 2915.09, not in the bill.

¹⁵ R.C. 2915.091, not in the bill.

¹⁶ R.C. 2915.11, not in the bill.

¹⁷ R.C. 3769.26, not in the bill.

¹⁸ R.C. 4301.252, not in the bill.



offense from being eligible to apply for a permit to operate a tag fishing tournament,¹⁹ and include a gambling offense as a disqualifying offense for employment or licensing in certain positions of the Casino Control Commission.²⁰

Currently, "gambling offense" means any of the following: (1) a violation of R.C. 2915.02, 2915.03, 2915.04, 2915.05, 2915.06, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.11, (2) a violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States substantially equivalent to any section listed in clause (1) or a violation of R.C. 2915.06 as it existed prior to July 1, 1996, (3) an offense under an existing or former municipal ordinance or law of Ohio or any other state or the United States, of which gambling is an element, or (4) a conspiracy or attempt to commit, or complicity in committing, any offense under clause (1), (2), or (3).²¹

Background – existing casino prohibitions

The Casino Control Law contains many prohibitions and sanctions for violation of the prohibitions.²²

In general

Existing law requires the Casino Control Commission to levy and collect penalties for noncriminal violations of the Casino Control Law. Noncriminal violations include using the term "casino" in any advertisement in regard to a facility operating video lottery terminals, as defined in R.C. 3770.21, in Ohio. Moneys collected from such penalty levies are credited to the General Revenue Fund.

If a licensed casino operator, management company, holding company, gaming-related vendor, or key employee violates the Casino Law or engages in a fraudulent act, the Casino Control Commission may suspend or revoke the license and may do either or both of the following: (1) suspend, revoke, or restrict the casino gaming operations of a casino operator, or (2) require the removal of a management company, key employee, or discontinuance of services from a gaming-related vendor.

¹⁹ R.C. 1533.96, not in the bill.

²⁰ R.C. 3772.07, not in the bill.

²¹ R.C. 2915.01(G).

²² R.C. 3772.99(A) to (G) and (I).



The Casino Control Commission must impose civil penalties against a person who violates the Casino Control Law under the penalties adopted by Commission rule and reviewed by the joint committee on gaming and wagering.

Application, underage, and operator or employee participation offenses

A person who knowingly or intentionally does any of the following commits a first degree misdemeanor on the first offense and a fifth degree felony for a subsequent offense:

- (1) Makes a false statement on an application submitted under the Casino Law;
- (2) Permits a person less than 21 to make a wager at a casino facility;
- (3) Aids, induces, or causes a person less than 21 who is not an employee of the casino gaming operation to enter or attempt to enter a casino facility;
- (4) Enters or attempts to enter a casino facility while under 21, unless the person enters a designated area as described in R.C. 3772.24;
- (5) Is a casino operator or employee and participates in casino gaming other than as part of operation or employment.

Cheating and fraud offenses

A person who knowingly or intentionally does any of the following commits a fifth degree felony on a first offense and a fourth degree felony for a subsequent offense:

- (1) Uses or possesses with the intent to use a device to assist in projecting the outcome of the casino game, keeping track of the cards played, analyzing the probability of the occurrence of an event relating to the casino game, or analyzing the strategy for playing or betting to be used in the casino game, except as permitted by the Commission;
- (2) Cheats at a casino game;
- (3) Manufactures, sells, or distributes any cards, chips, dice, game, or device intended to be used to violate the Casino Law;
- (4) Alters or misrepresents the outcome of a casino game on which wagers have been made after the outcome is made sure but before the outcome is revealed to the players;

(5) Places, increases, or decreases a wager on the outcome of a casino game after acquiring knowledge that is not available to all players and concerns the outcome of the casino game that is the subject of the wager;

(6) Aids a person in acquiring the knowledge described in paragraph (5) for the purpose of placing, increasing, or decreasing a wager contingent on the outcome of a casino game;

(7) Claims, collects, takes, or attempts to claim, collect, or take money or anything of value in or from a casino game with the intent to defraud or without having made a wager contingent on winning a casino game;

(8) Claims, collects, or takes an amount of money or thing of value of greater value than the amount won in a casino game;

(9) Uses or possesses counterfeit chips, tokens, or cashless wagering instruments in or for use in a casino game;

(10) Possesses a key or device designed for opening, entering, or affecting the operation of a casino game, drop box, or an electronic or a mechanical device connected with the casino game or removing coins, tokens, chips, or other contents of a casino game (this provision does not apply to a casino operator, management company, or gaming-related vendor or their agents and employees in the course of agency or employment);

(11) Possesses materials used to manufacture a device intended to be used in a manner that violates this chapter;

(12) Operates a casino gaming operation in which wagering is conducted or is to be conducted in a manner other than the manner required under this chapter.

If the offender under any of the above provisions is a licensee under the Casino Law, the Casino Control Commission must revoke the person's license after the first offense. The possession of more than one of the devices described in paragraph (9), (10), or (11) creates a rebuttable presumption that the possessor intended to use the devices for cheating.

Bribery-related offenses

A person who knowingly or intentionally does any of the following commits a third degree felony:

(1) Offers, promises, or gives anything of value or benefit to a person who is connected with the casino operator, management company, holding company, or



gaming-related vendor, including their officers and employees, under an agreement to influence or with the intent to influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a casino game or an official action of a Commission member, agent, or employee;

(2) Solicits, accepts, or receives a promise of anything of value or benefit while the person is connected with a casino, including an officer or employee of a casino operator, management company, or gaming-related vendor, under an agreement to influence or with the intent to influence the actions of the person to affect or attempt to affect the outcome of a casino game or an official action of a Commission member, agent, or employee.

If an offender under any of these provisions is a licensee under the Casino Law, the Casino Control Commission must revoke the person's license after the first offense. A public servant or party official who is convicted under any of the provisions described in this paragraph is forever disqualified from holding any public office, employment, or position of trust in this state.

Possible lifetime entry bar

A person who is convicted of a felony under any of the prohibitions described above may be barred for life from entering a casino facility by the Commission.

Background – Sub. H.B. 7 sweepstakes provisions

Statutory law enacted in Sub. H.B. 7, which took effect on October 4, 2013, regulates the conduct of sweepstakes and provides penalties for persons who violate any of the prohibitions within the regulatory mechanism. The provisions prohibit a person from doing any of the following: (1) conducting, or participating in the conduct of, a "sweepstakes" with the use of a "sweepstakes terminal device" at a "sweepstakes terminal device facility" (see below for definitions of the terms in quotation marks) and either giving to another person any item described in R.C. 2915.01(VV)(1), (2), (3), or (4) as a prize for playing or participating in a sweepstakes, or 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 may not be redeemable for a merchandise prize with a wholesale value of more than \$10), (2) 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 AG under R.C. 2915.02(F), or (3) with purpose to violate either clause (1) or (2), acquiring, possessing, controlling, or operating any gambling device.



A violation of this prohibition is the offense of "gambling." Other existing prohibitions not related to sweepstakes also are within the offense. The offense generally is a first degree misdemeanor, but is a fifth degree felony if the offender previously has been convicted of any gambling offense.²³

Under the Sub. H.B. 7 sweepstakes provisions:²⁴

(1) A 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 office of the AG and obtain an annual certificate of registration by providing a \$200 filing fee and all information as required by rule adopted by the AG. Not later than the 10th day of each month, each sweepstakes terminal device operator must file a sweepstakes terminal device monthly report with the AG and provide a \$50 filing fee and all information required by rule adopted by the AG. All information provided to the AG under this provision is available to law enforcement upon request.

(2) A person may apply to the AG, on a form prescribed by the AG, for a certificate of compliance that the person is not operating a sweepstakes terminal device facility. The form must require the person to include the address of the business location where sweepstakes terminal devices will be used and to make other specified certifications, including that the retail value of sweepstakes prizes to be awarded at the business location using sweepstakes terminal devices during a reporting period will be less than 3% of the gross revenue received at the business location during the reporting period. The filing fee for a certificate of compliance is \$250, and the AG may charge up to an additional \$250 for reasonable expenses resulting from any investigation related to an application for a certificate. A certificate of compliance is effective for one year, and a certificate holder may reapply for a certificate. A person issued a certificate of compliance must file semiannual reports with the AG stating the number of sweepstakes terminal devices at the business location and that the retail value of prizes awarded at the business location using sweepstakes terminal devices is less than 3% of the gross revenue received at the business location. The AG must adopt rules of a specified nature that pertain to sweepstakes.

(3) The AG must issue a certificate of registration or a certificate of compliance to all persons who successfully satisfy the applicable requirements described above. The AG must post online a registry of all properly registered and certified sweepstakes

²³ R.C. 2915.02(A)(5) to (7) and (K), enacted or amended in Sub. H.B. 7 and not in the bill.

²⁴ R.C. 2915.02(F) to (K), enacted in Sub. H.B. 7 and not in the bill; R.C. 2915.01(AAA) to (BBB), enacted in Sub. H.B. 7 and not in the bill because they were not in effect when the bill was drafted.



terminal device operators. The AG may refuse to issue an annual certificate of registration or certificate of compliance to any person or, if either has been issued, may revoke the certificate if the applicant provided any information to the AG as part of a registration, certification, monthly report, semiannual 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.

(4) Notwithstanding the other penalties provided for the offense of "gambling," failing to file a sweepstakes terminal device monthly report or a semiannual report required under the provisions described above is a first degree misdemeanor.

(5) As used in the Sub. H.B. 7 sweepstakes provisions (and throughout R.C. Chapter 2915.):

"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 as authorized under R.C. Chapter 2915. (the Gambling Law); pari-mutuel wagering as authorized under R.C. Chapter 3769.; lotteries conducted by the State Lottery Commission as authorized under R.C. Chapter 3770.; and casino gaming as authorized under R.C. Chapter 3772. (See **COMMENT.**)

"Sweepstakes terminal device" means 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 if any of the following apply: (1) it uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries, (2) it utilizes software such that the simulated game influences or determines the winning of or value of the prize, (3) it selects prizes from a predetermined finite pool of entries, (4) it utilizes a mechanism that reveals the content of a predetermined sweepstakes entry, (5) it predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed, (6) it utilizes software to create a game result, (7) it reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded, or (8) it determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

"Sweepstakes terminal device facility" means any location in Ohio where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in R.C. 2915.02(G).



"**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 may 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.

Background – existing and Sub. H.B. 7 scheme of chance prohibitions

Existing law, not in the bill, prohibits a person from: (1) establishing, promoting, or operating or knowingly engaging in conduct that facilitates any scheme of chance, (2) 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 any scheme of chance, (3) engaging in playing any scheme of chance as a substantial source of income or livelihood, or (4) with purpose to violate clause (1) to (3), above, acquiring, possessing, controlling, or operating any gambling device. For purposes of this provision, a person facilitates a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such scheme, including, without limitation, playing any such scheme.

A violation of this prohibition is the offense of "gambling." Other prohibitions not related to schemes of chance also are within the offense. The offense generally is a first degree misdemeanor, but is a fifth degree felony if the offender previously has been convicted of any gambling offense.²⁵

Existing law defines "scheme of chance" for purposes of the prohibitions described above. Sub. H.B. 7, in changes that took effect on October 4, 2013, modified the definition of the term. Under Sub. H.B. 7, as used in the scheme of chance prohibitions described above (and throughout R.C. Chapter 2915.):²⁶

"**Scheme of chance**" means a slot machine *unless authorized under R.C. Chapter 3772.*, lottery *unless authorized under R.C. Chapter 3770.*, 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

²⁵ R.C. 2915.02(A)(2) to (4) and (7) and (K), not in the bill.

²⁶ R.C. 2915.01(C), amended in Sub. H.B. 7 and some of which is not in the bill because it was not in effect when the bill was drafted.

a pool not conducted for profit. "*Scheme of chance*" 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. (The language in italics was added by Sub. H.B. 7.)

Under Sub. H.B. 7, for purposes of the definition of scheme of chance, "**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 an electronic device simulating a game of chance or a "casino game" as defined in R.C. 3772.01, (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 may use the electronic device to purchase additional game entries, (7) a participant may 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, or (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.

Under Sub. H.B. 7, as used in the definition of "scheme of chance," "**electronic device**" means a mechanical, video, digital, or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased, or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries, or contractors.

COMMENT

The bill enacts a definition "sweepstakes" that applies to the offense of "illegal sweepstakes conduct" that it enacts. This definition applies only to the new offense. Statutory law enacted in Sub. H.B. 7, described above in "**Background – Sub. H.B. 7 sweepstakes provisions**" under **CONTENT AND OPERATION**, defines "sweepstakes" for purposes of R.C. Chapter 2915., which includes the new offense. The bill's definition and the Sub. H.B. 7 definition differ, in that the bill's definition specifies that the term does not include prizes awarded by any business enterprise conducted at any location for less than 13 days per calendar year, but the Sub. H.B. 7 definition does not include such an exclusion.



HISTORY

ACTION	DATE
Introduced	06-06-13
Reported, S. Criminal Justice	06-19-13
Passed Senate (25-7)	06-26-13

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