

House Bill 3124

Sponsored by Representative BERGER; Representative JENSON, Senators JOHNSON, NELSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Excludes certain amusement devices from definition of "gray machines."

A BILL FOR AN ACT

Relating to gray machines; amending ORS 167.117.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 167.117 is amended to read:

167.117. As used in ORS 167.108 to 167.164 and 464.270 to 464.530, unless the context requires otherwise:

(1) "Bingo or lotto" means a game, played with cards bearing lines of numbers, in which a player covers or uncovers a number selected from a container, and which is won by a player who is present during the game and who first covers or uncovers the selected numbers in a designated combination, sequence or pattern.

(2) "Bookmaker" means a person who unlawfully accepts a bet from a member of the public upon the outcome of a future contingent event and who charges or accepts a percentage, fee or vigorish on the wager.

(3) "Bookmaking" means promoting gambling by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.

(4) "Casino game" means any of the traditional gambling-based games commonly known as dice, faro, monte, roulette, fan-tan, twenty-one, blackjack, Texas hold-'em, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panquiqui, red dog, acey-deucey, or any other gambling-based game similar in form or content.

(5)(a) "Charitable, fraternal or religious organization" means any person that is:

(A) Organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes; and

(B) Exempt from payment of federal income taxes because of its charitable, fraternal or religious purposes.

(b) The fact that contributions to an organization profiting from a contest of chance do not qualify for a charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal or religious organization.

(6) "Contest of chance" means any contest, game, gaming scheme or gaming device in which the

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 outcome depends in a material degree upon an element of chance, notwithstanding that skill of the
 2 contestants may also be a factor therein.

3 (7) "Gambling" means that a person stakes or risks something of value upon the outcome of a
 4 contest of chance or a future contingent event not under the control or influence of the person, upon
 5 an agreement or understanding that the person or someone else will receive something of value in
 6 the event of a certain outcome. "Gambling" does not include:

7 (a) Bona fide business transactions valid under the law of contracts for the purchase or sale at
 8 a future date of securities or commodities, and agreements to compensate for loss caused by the
 9 happening of chance, including but not limited to contracts of indemnity or guaranty and life, health
 10 or accident insurance.

11 (b) Engaging in contests of chance under the following conditions:

12 (A) The contest is played for some token other than money;

13 (B) An individual contestant may not purchase more than \$100 worth of tokens for use in the
 14 contest during any 24-hour period;

15 (C) The tokens may be exchanged only for property other than money;

16 (D) Except when the tokens are exchanged for a beverage or merchandise to be consumed on
 17 the premises, the tokens are not redeemable on the premises where the contest is conducted or
 18 within 50 miles thereof; and

19 (E) Except for charitable, fraternal or religious organizations, no person who conducts the con-
 20 test as owner, agent or employee profits in any manner from operation of the contest.

21 (c) Social games.

22 (d) Bingo, lotto or raffle games or Monte Carlo events operated in compliance with ORS 167.118,
 23 by a charitable, fraternal or religious organization licensed pursuant to ORS 167.118, 464.250 to
 24 464.380 and 464.420 to 464.530 to operate such games.

25 (8) "Gambling device" means any device, machine, paraphernalia or equipment that is used or
 26 usable in the playing phases of unlawful gambling, whether it consists of gambling between persons
 27 or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other
 28 items used in the playing phases of lottery and policy schemes are not gambling devices within this
 29 definition. Amusement devices other than gray machines, that do not return to the operator or
 30 player thereof anything but free additional games or plays, shall not be considered to be gambling
 31 devices.

32 (9)(a) "Gray machine" means any electrical or electromechanical device, whether or not it is in
 33 working order or some act of manipulation, repair, adjustment or modification is required to render
 34 it operational, that:

35 (A) Awards credits or contains or is readily adaptable to contain, a circuit, meter or switch
 36 capable of removing or recording the removal of credits earned by a player, other than removal
 37 during the course of continuous play; or

38 (B) Plays, emulates or simulates [*a casino game,*] bingo or keno.

39 (b) A device is no less a gray machine because, apart from its use or adaptability as such, it
 40 may also sell or deliver something of value on the basis other than chance.

41 (c) "Gray machine" does not include:

42 (A) Any device commonly known as a personal computer, including any device designed and
 43 marketed solely for home entertainment, when used privately and not for a fee and not used to fa-
 44 cilitate any form of gambling;

45 (B) Any device operated under the authority of the Oregon State Lottery;

1 (C) Any device manufactured or serviced but not operated in Oregon by a manufacturer who
 2 has been approved under rules adopted by the Oregon State Lottery Commission;

3 (D) A slot machine;

4 (E) Any device authorized by the Oregon State Lottery Commission for:

5 (i) Display and demonstration purposes only at trade shows; or

6 (ii) Training and testing purposes by the Department of State Police; *[or]*

7 (F) Any device used to operate bingo in compliance with ORS 167.118 by a charitable, fraternal
 8 or religious organization licensed to operate bingo pursuant to ORS 167.118, 464.250 to 464.380 and
 9 464.420 to 464.530[.]; **or**

10 **(G) Any device that is played for amusement purposes that plays, emulates or simulates**
 11 **a casino game but does not accumulate credits or return to the operator or player of the**
 12 **device anything but free additional games or plays.**

13 (10) "Handle" means the total amount of money and other things of value bet on the bingo, lotto
 14 or raffle games, the value of raffle chances sold or the total amount collected from the sale of imi-
 15 tation money during Monte Carlo events.

16 (11) "Internet" means an interactive computer service or system or an information service, sys-
 17 tem or access software provider that provides or enables computer access by multiple users to a
 18 computer server and includes, but is not limited to, an information service, system or access soft-
 19 ware provider that provides access to a network system commonly known as the Internet, or any
 20 comparable system or service and also includes, but is not limited to a World Wide Web page,
 21 newsgroup, message board, mailing list or chat area on any interactive computer service or system
 22 or other online service.

23 (12) "Lottery" or "policy" means an unlawful gambling scheme in which:

24 (a) The players pay or agree to pay something of value for chances, represented and differen-
 25 tiated by numbers or by combinations of numbers or by some other medium, one or more of which
 26 chances are to be designated the winning ones;

27 (b) The winning chances are to be determined by a drawing or by some other method; and

28 (c) The holders of the winning chances are to receive something of value.

29 (13) "Monte Carlo event" means a gambling event at which wagers are placed with imitation
 30 money upon contests of chance in which players compete against other players or against the house.
 31 As used in this subsection, "imitation money" includes imitation currency, chips or tokens.

32 (14) "Numbers scheme or enterprise" means a form of lottery in which the winning chances or
 33 plays are not determined upon the basis of a drawing or other act on the part of persons conducting
 34 or connected with the scheme, but upon the basis of the outcome of a future contingent event oth-
 35 erwise unrelated to the particular scheme.

36 (15) "Operating expenses" means those expenses incurred in the operation of a bingo, lotto or
 37 raffle game, including only the following:

38 (a) Salaries, employee benefits, workers' compensation coverage and state and federal employee
 39 taxes;

40 (b) Security services;

41 (c) Legal and accounting services;

42 (d) Supplies and inventory;

43 (e) Rent, repairs, utilities, water, sewer and garbage;

44 (f) Insurance;

45 (g) Equipment;

- 1 (h) Printing and promotions;
- 2 (i) Postage and shipping;
- 3 (j) Janitorial services and supplies; and
- 4 (k) Leasehold improvements.

5 (16) "Player" means a person who engages in any form of gambling solely as a contestant or
 6 bettor, without receiving or becoming entitled to receive any profit therefrom other than personal
 7 gambling winnings, and without otherwise rendering any material assistance to the establishment,
 8 conduct or operation of the particular gambling activity. A person who gambles at a social game
 9 of chance on equal terms with the other participants therein is a person who does not otherwise
 10 render material assistance to the establishment, conduct or operation thereof by performing, without
 11 fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as in-
 12 viting persons to play, permitting the use of premises therefor and supplying cards or other equip-
 13 ment used therein. A person who engages in bookmaking is not a player.

14 (17) "Profits from unlawful gambling" means that a person, acting other than solely as a player,
 15 accepts or receives money or other property pursuant to an agreement or understanding with an-
 16 other person whereby the person participates or is to participate in the proceeds of unlawful gam-
 17 bling.

18 (18) "Promotes unlawful gambling" means that a person, acting other than solely as a player,
 19 engages in conduct that materially aids any form of unlawful gambling. Conduct of this nature in-
 20 cludes, but is not limited to, conduct directed toward the creation or establishment of the particular
 21 game, contest, scheme, device or activity involved, toward the acquisition or maintenance of prem-
 22 ises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of per-
 23 sons to participate therein, toward the conduct of the playing phases thereof, toward the
 24 arrangement of any of its financial or recording phases or toward any other phase of its operation.
 25 A person promotes unlawful gambling if, having control or right of control over premises being used
 26 with the knowledge of the person for purposes of unlawful gambling, the person permits the unlawful
 27 gambling to occur or continue or makes no effort to prevent its occurrence or continuation.

28 (19) "Raffle" means a lottery operated by a charitable, fraternal or religious organization
 29 wherein the players pay something of value for chances, represented by numbers or combinations
 30 thereof or by some other medium, one or more of which chances are to be designated the winning
 31 ones or determined by a drawing and the player holding the winning chance is to receive something
 32 of value.

33 (20)(a) "Slot machine" means a gambling device that as a result of the insertion of a coin or
 34 other object operates, either completely automatically, or with the aid of some physical act by the
 35 player, in such a manner that, depending upon elements of chance, it may eject something of value
 36 or otherwise entitle the player to something of value. A device so constructed or readily adaptable
 37 or convertible to such use is no less a slot machine because it is not in working order or because
 38 some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion
 39 or workability. Nor is it any less a slot machine because apart from its use or adaptability as such
 40 it may also sell or deliver something of value on the basis other than chance.

41 (b) "Slot machine" does not include any device authorized by the Oregon State Lottery Com-
 42 mission for:

- 43 (A) Display and demonstration purposes only at trade shows; or
- 44 (B) Training and testing purposes by the Department of State Police.

45 (21) "Social game" means:

1 (a) A game, other than a lottery, between players in a private home where no house player,
2 house bank or house odds exist and there is no house income from the operation of the social game;
3 and

4 (b) If authorized pursuant to ORS 167.121, a game, other than a lottery, between players in a
5 private business, private club or place of public accommodation where no house player, house bank
6 or house odds exist and there is no house income from the operation of the social game.

7 (22) "Something of value" means any money or property, any token, object or article
8 exchangeable for money or property, or any form of credit or promise directly or indirectly con-
9 templating transfer of money or property or of any interest therein.

10 (23) "Trade show" means an exhibit of products and services that is:

11 (a) Not open to the public; and

12 (b) Of limited duration.

13 (24) "Unlawful" means not specifically authorized by law.

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