

House Bill 3274

Sponsored by Representatives KENY-GUYER, CLEM (at the request of Joel Fischer)

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**.

Permits credit union to conduct savings promotion raffle, subject to specified conditions.
Exempts savings promotion raffle from definition of gambling.
Becomes operative January 1, 2014.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to savings promotion raffles; creating new provisions; amending ORS 167.117 and 471.408;
3 and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 723.**

6 **SECTION 2. (1) As used in this section, "savings promotion raffle" means a contest in**
7 **which a credit union, as defined in ORS 723.008, or an agent of the credit union, offers a**
8 **chance for an individual member of the credit union to win a designated prize by depositing**
9 **in the individual member's share account, deposit certificate account or other savings ac-**
10 **count a specific amount of money during a specific period of time.**

11 **(2) Subject to subsection (3) of this section, a credit union may conduct a savings pro-**
12 **motion raffle within this state.**

13 **(3) A credit union may not, in conducting a savings promotion raffle:**

14 **(a) Design, engage in, promote or conduct the savings promotion raffle in connection**
15 **with selling or promoting a consumer product or service other than a share account, deposit**
16 **certificate account or other savings account the credit union offers.**

17 **(b) Unfairly predetermine a winner in, or otherwise manipulate or rig, the savings pro-**
18 **motion raffle.**

19 **(c) Permit a director, officer, employee or agent of the credit union to participate in the**
20 **savings promotion raffle.**

21 **(d) Arbitrarily remove, disqualify, disallow or reject an application to enter or an attempt**
22 **to participate in the savings promotion raffle.**

23 **(e) Fail to award the prize the credit union offers in the savings promotion raffle.**

24 **(f) Print, publish, circulate or display by means of any medium an advertisement or other**
25 **statement concerning the savings promotion raffle that is false, deceptive or misleading.**

26 **(g) Require an entry fee, a payment or promise to pay any valuable consideration as a**
27 **condition of participating in or winning a prize from a savings promotion raffle, except that**
28 **a credit union may require an individual member to deposit a minimum amount to open a**
29 **share account, deposit certificate account or other savings account and a specific amount**
30 **to participate in the savings promotion raffle and may charge any fee or amount to admin-**

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 **ister or maintain the individual member’s share account, deposit certificate account or other**
 2 **savings account that the credit union ordinarily and customarily charges an individual**
 3 **member who does not participate in the savings promotion raffle.**

4 (4) **A credit union, in conducting and administering a savings promotion raffle, shall en-**
 5 **sure that every individual member that participates in the savings promotion raffle has an**
 6 **equal chance to win any designated prize the credit union offers for the savings promotion**
 7 **raffle.**

8 (5) **A credit union’s violation of subsection (3) or (4) of this section is subject to a civil**
 9 **penalty as provided in ORS 723.995.**

10 (6) **This section applies uniformly throughout this state and within all political subdivi-**
 11 **sions and municipalities of this state. A political subdivision of this state or a municipality**
 12 **may not enact or adopt an ordinance, resolution, regulation, rule or other law to limit or**
 13 **restrict a credit union’s operation of a savings promotion raffle within this state.**

14 (7) **This section does not repeal or modify existing state laws with respect to gambling,**
 15 **except that a savings promotion raffle is not subject to existing state laws with respect to**
 16 **gambling.**

17 (8) **The Director of the Department of Consumer and Business Services may adopt rules**
 18 **to implement the provisions of this section.**

19 **SECTION 3.** ORS 167.117 is amended to read:

20 167.117. As used in ORS 167.108 to 167.164 and 464.270 to 464.530, unless the context requires
 21 otherwise:

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

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

29 (3) “Bookmaking” means promoting gambling by unlawfully accepting bets from members of the
 30 public as a business, rather than in a casual or personal fashion, upon the outcomes of future con-
 31 tingent events.

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

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

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

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

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

1 religious organization.

2 (6) "Contest of chance" means any contest, game, gaming scheme or gaming device in which the
3 outcome depends in a material degree upon an element of chance, notwithstanding that skill of the
4 contestants may also be a factor therein.

5 (7)(a) "Gambling" means *[that a person stakes or risks]* **a person's staking or risking** something
6 of value upon the outcome of a contest of chance or a future contingent event *[not under the]* **that**
7 **the person does not** control or influence *[of the person]*, upon an agreement or understanding that
8 the person or *[someone else]* **another person** will receive something of value in the event of a cer-
9 tain outcome.

10 (b) "Gambling" does not include:

11 [(a)] (A) Bona fide business transactions valid under the law of contracts for *[the purchase or*
12 *sale]* **purchasing or selling securities or commodities** at a future date *[of securities or*
13 *commodities]*, and agreements to compensate for loss caused by the happening of chance, including
14 but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

15 [(b)] (B) Engaging in contests of chance under the following conditions:

16 [(A)] (i) The contest is played for *[some]* **a** token other than money;

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

19 [(C)] (iii) The tokens may be exchanged only for property other than money;

20 [(D)] (iv) Except when the tokens are exchanged for a beverage or merchandise to be consumed
21 on the premises, the tokens are not redeemable on the premises where the contest is conducted or
22 within 50 miles *[thereof]* **of the premises**; and

23 [(E)] (v) Except for charitable, fraternal or religious organizations, *[no]* **a** person who conducts
24 the contest as owner, agent or employee *[profits]* **may not profit** in any manner from *[operation*
25 *of]* **operating** the contest.

26 [(c)] (C) Social games.

27 [(d)] (D) Bingo, lotto or raffle games or Monte Carlo events operated in compliance with ORS
28 167.118, by a charitable, fraternal or religious organization licensed pursuant to ORS 167.118,
29 464.250 to 464.380 and 464.420 to 464.530 to operate such games.

30 (E) **Savings promotion raffles, as defined in section 2 of this 2013 Act.**

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

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

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

44 (B) Plays, emulates or simulates a casino game, bingo or keno.

45 (b) A device is no less a gray machine because, apart from its use or adaptability as such, it

1 may also sell or deliver something of value on the basis other than chance.

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

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

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

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

9 (D) A slot machine;

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

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

12 (ii) Training and testing purposes by the Department of State Police; or

13 (F) Any device used to operate bingo in compliance with ORS 167.118 by a charitable, fraternal
14 or religious organization licensed to operate bingo pursuant to ORS 167.118, 464.250 to 464.380 and
15 464.420 to 464.530.

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

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

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

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

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

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

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

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

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

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

43 (b) Security services;

44 (c) Legal and accounting services;

45 (d) Supplies and inventory;

- 1 (e) Rent, repairs, utilities, water, sewer and garbage;
- 2 (f) Insurance;
- 3 (g) Equipment;
- 4 (h) Printing and promotions;
- 5 (i) Postage and shipping;
- 6 (j) Janitorial services and supplies; and
- 7 (k) Leasehold improvements.

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

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

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

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

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

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

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

3 (21) "Social game" means:

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

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

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

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

14 (a) Not open to the public; and

15 (b) Of limited duration.

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

17 **SECTION 4.** ORS 471.408 is amended to read:

18 471.408. (1) Except as otherwise provided in this section, alcoholic liquor may not be given as
19 a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of
20 any kind.

21 (2) A charitable, nonprofit corporation may conduct raffles for wine and arrange for delivery of
22 the wine to the residence of the person winning a raffle.

23 (3) A charitable, fraternal or religious organization may offer alcoholic liquor as a prize, pre-
24 mium or consideration in a contest of chance described in ORS 167.117 [(7)(b)] (7)(b)(B) or con-
25 ducted as part of a Monte Carlo event as defined in ORS 167.117.

26 **SECTION 5.** (1) **Section 2 of this 2013 Act and the amendments to ORS 167.117 and 471.408**
27 **by sections 3 and 4 of this 2013 Act become operative January 1, 2014.**

28 (2) **The Director of the Department of Consumer and Business Services may take any**
29 **action before the operative date specified in subsection (1) of this section that is necessary**
30 **to enable the director to exercise, on and after the operative date specified in subsection (1)**
31 **of this section, all of the duties, functions and powers conferred on the director by section**
32 **2 of this 2013 Act and the amendments to ORS 167.117 and 471.408 by sections 3 and 4 of this**
33 **2013 Act.**

34 **SECTION 6.** **This 2013 Act being necessary for the immediate preservation of the public**
35 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
36 **on its passage.**

37