

D R A F T

SUMMARY

Includes daily fantasy sports game in definition of “contest of chance” for purposes of gambling and gaming laws.

A BILL FOR AN ACT

Relating to gambling; 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,

1 baccarat, pai gow, beat the banker, panquinqui, red dog, acey-deucey, or any
2 other gambling-based game similar in form or content.

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

5 (A) Organized and existing for charitable, benevolent, eleemosynary, hu-
6 mane, patriotic, religious, philanthropic, recreational, social, educational,
7 civic, fraternal or other nonprofit purposes; and

8 (B) Exempt from payment of federal income taxes because of its charita-
9 ble, fraternal or religious purposes.

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

16 (6) “Contest of chance” means [*any*] a contest, **daily fantasy sports**
17 **game**, game, gaming scheme or gaming device in which the outcome depends
18 in a material degree upon an element of chance, notwithstanding that skill
19 of the contestants may also be a factor [*therein*] **in the outcome**.

20 (7) “Gambling” means that a person stakes or risks something of value
21 upon the outcome of a contest of chance or a future contingent event not
22 under the control or influence of the person, upon an agreement or under-
23 standing that the person or someone else will receive something of value in
24 the event of a certain outcome. “Gambling” does not include:

25 (a) Bona fide business transactions valid under the law of contracts for
26 the purchase or sale at a future date of securities or commodities, and
27 agreements to compensate for loss caused by the happening of chance, in-
28 cluding but not limited to contracts of indemnity or guaranty and life, health
29 or accident insurance.

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

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

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

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

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

7 (E) Except for charitable, fraternal or religious organizations, no person
8 who conducts the contest as owner, agent or employee profits in any manner
9 from operation of the contest.

10 (c) Social games.

11 (d) Bingo, lotto or raffle games or Monte Carlo events operated in com-
12 pliance with ORS 167.118, by a charitable, fraternal or religious organization
13 licensed pursuant to ORS 167.118, 464.250 to 464.380 and 464.420 to 464.530
14 to operate such games.

15 (e) Savings promotion raffles, as defined in ORS 708A.660.

16 (8) "Gambling device" means any device, machine, paraphernalia or
17 equipment that is used or usable in the playing phases of unlawful gambling,
18 whether it consists of gambling between persons or gambling by a person
19 involving the playing of a machine. Lottery tickets, policy slips and other
20 items used in the playing phases of lottery and policy schemes are not gam-
21 bling devices within this definition. Amusement devices other than gray
22 machines, that do not return to the operator or player thereof anything but
23 free additional games or plays, shall not be considered to be gambling de-
24 vices.

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

28 (A) Awards credits or contains or is readily adaptable to contain, a cir-
29 cuit, meter or switch capable of removing or recording the removal of credits
30 earned by a player, other than removal during the course of continuous play;

31 or

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

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

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

6 (A) Any device commonly known as a personal computer, including any
7 device designed and marketed solely for home entertainment, when used
8 privately and not for a fee and not used to facilitate any form of gambling;

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

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

13 (D) A slot machine;

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

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

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

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

20 (10) "Handle" means the total amount of money and other things of value
21 bet on the bingo, lotto or raffle games, the value of raffle chances sold or
22 the total amount collected from the sale of imitation money during Monte
23 Carlo events.

24 (11) "Internet" means an interactive computer service or system or an
25 information service, system or access software provider that provides or en-
26 ables computer access by multiple users to a computer server and includes,
27 but is not limited to, an information service, system or access software pro-
28 vider that provides access to a network system commonly known as the
29 Internet, or any comparable system or service and also includes, but is not
30 limited to a World Wide Web page, newsgroup, message board, mailing list
31 or chat area on any interactive computer service or system or other online

1 service.

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

3 (a) The players pay or agree to pay something of value for chances, re-
4 presented and differentiated by numbers or by combinations of numbers or
5 by some other medium, one or more of which chances are to be designated
6 the winning ones;

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

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

10 (13) "Monte Carlo event" means a gambling event at which wagers are
11 placed with imitation money upon contests of chance in which players com-
12 pete against other players or against the house. As used in this subsection,
13 "imitation money" includes imitation currency, chips or tokens.

14 (14) "Numbers scheme or enterprise" means a form of lottery in which the
15 winning chances or plays are not determined upon the basis of a drawing
16 or other act on the part of persons conducting or connected with the scheme,
17 but upon the basis of the outcome of a future contingent event otherwise
18 unrelated to the particular scheme.

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

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

23 (b) Security services;

24 (c) Legal and accounting services;

25 (d) Supplies and inventory;

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

27 (f) Insurance;

28 (g) Equipment;

29 (h) Printing and promotions;

30 (i) Postage and shipping;

31 (j) Janitorial services and supplies; and

1 (k) Leasehold improvements.

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

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

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

1 (19) "Raffle" means a lottery operated by a charitable, fraternal or reli-
2 gious organization wherein the players pay something of value for chances,
3 represented by numbers or combinations thereof or by some other medium,
4 one or more of which chances are to be designated the winning ones or de-
5 termined by a drawing and the player holding the winning chance is to re-
6 ceive something of value.

7 (20)(a) "Slot machine" means a gambling device that as a result of the
8 insertion of a coin or other object operates, either completely automatically,
9 or with the aid of some physical act by the player, in such a manner that,
10 depending upon elements of chance, it may eject something of value or oth-
11 erwise entitle the player to something of value. A device so constructed or
12 readily adaptable or convertible to such use is no less a slot machine because
13 it is not in working order or because some mechanical act of manipulation
14 or repair is required to accomplish its adaptation, conversion or workability.
15 Nor is it any less a slot machine because apart from its use or adaptability
16 as such it may also sell or deliver something of value on the basis other than
17 chance.

18 (b) "Slot machine" does not include any device authorized by the Oregon
19 State Lottery Commission for:

20 (A) Display and demonstration purposes only at trade shows; or

21 (B) Training and testing purposes by the Department of State Police.

22 (21) "Social game" means:

23 (a) A game, other than a lottery, between players in a private home where
24 no house player, house bank or house odds exist and there is no house in-
25 come from the operation of the social game; and

26 (b) If authorized pursuant to ORS 167.121, a game, other than a lottery,
27 between players in a private business, private club or place of public ac-
28 commodation where no house player, house bank or house odds exist and
29 there is no house income from the operation of the social game.

30 (22) "Something of value" means any money or property, any token, object
31 or article exchangeable for money or property, or any form of credit or

1 promise directly or indirectly contemplating transfer of money or property
2 or of any interest therein.

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

4 (a) Not open to the public; and

5 (b) Of limited duration.

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

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