

Regular Session, 2014

HOUSE BILL NO. 293

BY REPRESENTATIVES ADAMS AND LOPINTO

GAMBLING: Prohibits gambling by electronic sweepstakes device

1 AN ACT

2 To enact R.S. 14:90.7, relative to gambling; to create the crime of gambling by electronic
3 sweepstakes device; to provide for definitions; to provide for criminal penalties; to
4 provide for applicability; to provide for exceptions; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:90.7 is hereby enacted to read as follows:

8 §90.7. Gambling by electronic sweepstakes device

9 A. The Louisiana Legislature finds that in recent years various companies
10 have developed electronic machines and devices to enable gambling through
11 pretextual sweepstakes relationships with Internet services, telephone cards, and
12 other products, and that such electronic sweepstakes systems using electronic
13 gambling machines, computer terminals, and other means of presented simulated
14 gambling, are contrary to the public policy of this state.

15 B. Gambling by electronic sweepstakes device is the intentional conducting
16 of, or directly assisting in the conducting of, as a business any game, contest, lottery,
17 or contrivance whereby a person risks the loss of anything of value in order to realize
18 a profit, through the operation of an electronic gaming machine or device that does
19 or purports to do either of the following:

1 (1) Conduct a sweepstakes through the use of a simulated gambling device,
2 including the entry process or the revealing of a prize.

3 (2) Promote a sweepstakes that is conducted through the use of a simulated
4 gambling device, including the entry process or the revealing of a prize.

5 C. For the purposes of this Section, the following definitions shall apply:

6 (1) "Electronic gaming machine or device" means a mechanically,
7 electrically, or electronically-operated machine or device that is intended to be used
8 by a sweepstakes entrant and that displays the results of a game entry or game
9 outcome to a participant on a screen or other mechanism at a business location,
10 including a private club, that is owned, leased, or otherwise possessed, in whole or
11 in part, by any person conducting the sweepstakes or by that person's partners,
12 affiliates, subsidiaries, agents, or contractors. The term includes an electronic
13 gaming machine or device which includes any of the following characteristics:

14 (a) Uses a simulated game terminal as a representation of the prizes
15 associated with the results of the sweepstakes entries.

16 (b) Uses software that simulates a game that influences or determines the
17 winning or value of the prize.

18 (c) Selects prizes from a predetermined finite pool of entries.

19 (d) Uses a mechanism that reveals the content of a predetermined
20 sweepstakes entry.

21 (e) Predetermines the prize results and restores those results for delivery at
22 the time the sweepstakes entry is revealed.

23 (f) Uses software to create a game result.

24 (g) Requires a deposit of any money, coin or token, or the use of any credit
25 card, debit card, prepaid card, or other method of payment to activate the electronic
26 gaming machine or device.

27 (h) Requires direct payment into the electronic gaming machine or device
28 or remote activation of the electronic gaming machine or device.

1 (i) Requires purchase of a related product and the related product has
2 legitimate value.

3 (j) Reveals the prize incrementally even though it may not influence whether
4 a prize is awarded or the value of any prize awarded.

5 (k) Determines and associates the prize with an entry or entries at the time
6 the sweepstakes is entered.

7 (2) "Enter" or "entry" means the act or process by which a person becomes
8 eligible to receive any prize offered in a sweepstakes.

9 (3) "Prize" means any gift, award, gratuity, good, service, credit, or anything
10 else of value which may be transferred to a person whether or not possession of the
11 prize is actually transferred or placed on an account or other record as evidence of
12 the intent to transfer the prize. "Prize" shall not include free or additional play or
13 intangible or virtual prizes that cannot be converted into money or merchandise.

14 (4) "Simulated gambling device" means a mechanically or electronically
15 operated machine, network, system, or device that is intended to be used by an
16 entrant to a game promotion or sweepstakes and that displays a simulated gambling
17 display on a screen or other mechanism at a business location, including a private
18 club, that is owned, leased, or otherwise possessed, in whole or in part, by any person
19 conducting the game or by that person's partners, affiliates, subsidiaries, agents, or
20 contractors. The term shall include, but is not limited to:

21 (a) A video poker game or any other kind of video card game.

22 (b) A video bingo game.

23 (c) A video craps game.

24 (d) A video keno game.

25 (e) A video lotto game.

26 (f) Eight liner.

27 (g) Pot-of-gold.

28 (h) A video game based on or involving the random or chance matching of
29 different pictures, words, numbers, or symbols.

1 (i) A personal computer of any size or configuration that performs any of the
2 functions of an electronic gaming machine or device as defined in this Section.

3 (j) A slot machine.

4 (5) "Sweepstakes" means any game, advertising scheme, plan, or other
5 promotion that, with or without payment of any consideration, a person may enter
6 to win or become eligible to receive any prize.

7 D. Whoever commits the crime of gambling by electronic sweepstakes
8 device shall be fined not more than twenty thousand dollars, imprisoned with or
9 without hard labor for not more than five years, or both.

10 E. The conducting or assisting in the conducting of gaming activities or
11 operations upon a riverboat, at the official gaming establishment, by operating an
12 electronic video draw poker device, by a charitable gaming licensee, or at a
13 pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse
14 racing facility, or the operation of a state lottery which is licensed for operation and
15 regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 7, and
16 8 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950,
17 shall not be considered gambling by electronic sweepstakes device for the purposes
18 of this Section, provided that the wagering is done on the premises of the licensed
19 establishment.

20 F. The conducting or assisting in the conducting of pari-mutuel wagering at
21 licensed racing facilities under the provisions of Chapter 4 of Title 4 of the Louisiana
22 Revised Statutes of 1950 shall not be considered gambling by electronic sweepstakes
23 device for the purposes of this Section provided that the wagering is done on the
24 premises of the licensed establishment.

25 G. Nothing in this Section shall prohibit, limit, or otherwise restrict the
26 purchase, sale, exchange, or other transaction related to stocks, bonds, futures,
27 options, commodities, or other similar instruments or transactions occurring on a
28 stock or commodities exchange, brokerage house, or similar entity.

1 H. Nothing in this Section shall limit or alter in any way the application of
2 the requirements for sweepstakes, contests, prizes, and similar activities under the
3 provisions of Chapter 19-A of Title 51 of the Louisiana Revised Statutes of 1950.

4 I. The providing of Internet or other on-line access, transmission, routing,
5 storage, or other communication-related services, or website design, development,
6 storage, maintenance, billing, advertising, hypertext linking, transaction processing,
7 or other site-related services, by telephone companies, Internet service providers,
8 software developers, licensors, or other such parties providing such services to
9 customers in the normal course of business, shall not be considered gambling by
10 electronic sweepstakes device even though the activities of such customers using
11 such services to conduct a prohibited game, contest, lottery, or contrivance may
12 constitute gambling by computer for the purposes of this Section. The provisions of
13 this Subsection shall not exempt from criminal prosecution any software developer,
14 licensor, or other such party if its primary purpose in providing such service is to
15 support the conduct of gambling as a business.

16 J. The provisions of this Section shall not prohibit the operation of a
17 stand-alone electronic sweepstakes machine or device which is not linked to any
18 other machine or connected to the Internet for purposes other than accounting and
19 maintenance if both of the following occur:

20 (1) The operation of the electronic sweepstakes machine or device is not
21 otherwise prohibited by law.

22 (2) The organization which is operating the device is a charitable
23 organization which has been in existence in Louisiana for more than ten years on
24 August 1, 2014, has as its primary purpose providing services to veterans of the
25 United States Armed Services, and is recognized as tax-exempt pursuant to Section
26 501(c), of the Internal Revenue Code.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Adams

HB No. 293

Abstract: Creates the crime of gambling by electronic sweepstakes device.

Present law provides for the crimes of gambling and gambling by computer.

Proposed law retains present law.

Proposed law defines gambling by electronic sweepstakes device as the intentional conducting of, or directly assisting in the conducting of, as a business any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit, through the operation of an electronic gaming machine or device that does or purports to do either of the following:

- (1) Conduct a sweepstakes through the use of a simulated gambling device, including the entry process or the revealing of a prize.
- (2) Promote a sweepstakes that is conducted through the use of a simulated gambling device, including the entry process or the revealing of a prize.

Proposed law provides penalties of a fine of more than \$20,000, imprisonment with or without hard labor for not more than five years, or both.

Proposed law creates exception for legalized forms of gaming which are authorized by present law if the activity is conducted on the licensed premises.

Proposed law creates exceptions for stock market trading done by computer.

Proposed law creates an exception for providing Internet or cable services.

Proposed law creates an exception for a charitable veterans' organization.

(Adds R.S. 14:90.7)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Added an exception for a charitable veterans' organization.