

Regular Session, 2014

HOUSE BILL NO. 293

BY REPRESENTATIVES ADAMS AND LOPINTO

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:

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

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

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

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

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

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

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

14 (d) Uses a mechanism that reveals the content of a predetermined
15 sweepstakes entry.

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

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

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

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

24 (i) Requires purchase of a related product and the related product has
25 legitimate value.

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

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

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

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

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

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

16 (b) A video bingo game.

17 (c) A video craps game.

18 (d) A video keno game.

19 (e) A video lotto game.

20 (f) Eight liner.

21 (g) Pot-of-gold.

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

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

26 (j) A slot machine.

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

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

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

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

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

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

26 I. The providing of Internet or other on-line access, transmission, routing,
27 storage, or other communication-related services, or website design, development,
28 storage, maintenance, billing, advertising, hypertext linking, transaction processing,
29 or other site-related services, by telephone companies, Internet service providers,
30 software developers, licensors, or other such parties providing such services to

1 customers in the normal course of business, shall not be considered gambling by
2 electronic sweepstakes device even though the activities of such customers using
3 such services to conduct a prohibited game, contest, lottery, or contrivance may
4 constitute gambling by computer for the purposes of this Section. The provisions of
5 this Subsection shall not exempt from criminal prosecution any software developer,
6 licensor, or other such party if its primary purpose in providing such service is to
7 support the conduct of gambling as a business.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____