

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 212 Session of 2021

INTRODUCED BY TOMLINSON, K. WARD, REGAN, AUMENT, TARTAGLIONE,
SANTARSIERO AND BOSCOLA, FEBRUARY 11, 2021

REFERRED TO JUDICIARY, FEBRUARY 11, 2021

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in riot, disorderly conduct and
3 related offenses, further providing for the offense of
4 gambling devices, gambling, etc.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 5513(a), (e.1) and (f) of Title 18 of the
8 Pennsylvania Consolidated Statutes are amended and the section
9 is amended by adding subsections to read:

10 § 5513. Gambling devices, gambling, etc.

11 (a) Offense defined.--[A] Except as provided in subsection
12 (d.1), a person is guilty of a misdemeanor of the first degree
13 if he:

14 (1) intentionally or knowingly makes, assembles, sets
15 up, maintains, sells, lends, leases, gives away, or offers
16 for sale, loan, lease or gift, any punch board, drawing card,
17 slot machine, skill game or any other device to be used for
18 gambling purposes, except playing cards;

19 (2) allows persons to collect and assemble for the

1 purpose of unlawful gambling at any place under his control;

2 (3) solicits or invites any person to visit any unlawful
3 gambling place for the purpose of gambling; or

4 (4) being the owner, tenant, lessee or occupant of any
5 premises, knowingly permits or suffers the same, or any part
6 thereof, to be used for the purpose of unlawful gambling.

7 * * *

8 (a.2) Family entertainment center.--Notwithstanding
9 subsection (a), a person operating a family entertainment center
10 may make skill games available for play if the prize won or
11 distributed to a player is a noncash, merchandise prize or a
12 voucher, billet, ticket, token or electronic credit redeemable
13 only for a noncash, merchandise prize:

14 (1) the value of which does not exceed the cost of
15 playing the skill game or the total aggregate cost of playing
16 multiple skill games;

17 (2) which is not, and does not include, an alcoholic
18 beverage;

19 (3) which is not eligible for repurchase; and

20 (4) which is not exchangeable for cash, cash equivalents
21 or anything of value whatsoever.

22 * * *

23 (d.1) Slot machine and skill game penalties.--

24 (1) A person who violates subsection (a) and whose
25 violation involves a slot machine or skill game:

26 (i) For a first offense, commits a misdemeanor of
27 the first degree and shall, upon conviction, be sentenced
28 to a fine of not less than \$5,000 per violation.

29 (ii) For a second offense, commits a misdemeanor of
30 the first degree and shall, upon conviction, be sentenced

1 to a fine of not less than \$10,000 per violation.

2 (iii) For a third or subsequent offense, commits a
3 felony of the third degree and shall, upon conviction, be
4 sentenced to a fine of not less than \$15,000 per
5 violation and, at the discretion of the court, an
6 additional fine of not more than \$1,000 per day for each
7 day that each slot machine or skill game is involved in
8 prohibited activity in violation of subsection (a).

9 (2) For purposes of the criminal penalties and fines
10 established under this subsection, each slot machine or skill
11 game involved in the prohibited activity under subsection (a)
12 shall constitute a separate violation.

13 (d.2) Slot machine and skill games enforcement.--

14 (1) The Bureau of Investigations and Enforcement
15 established under 4 Pa.C.S. § 1517(a) (relating to
16 investigations and enforcement) and the Office of Enforcement
17 Counsel established under 4 Pa.C.S. § 1517(a.2) shall seek
18 injunctive and other equitable relief from a court of
19 competent jurisdiction in relation to a violation of
20 subsection (a) that involves a slot machine or skill game. In
21 exercising its authority, the Bureau of Investigations and
22 Enforcement shall have the powers specified in 4 Pa.C.S. §
23 1517(e). A person who violates the terms of an injunction
24 issued under this paragraph shall forfeit and pay to the
25 Commonwealth a civil penalty of not more than \$5,000 per
26 violation. Each slot machine or skill game involved in the
27 violation of the terms of an injunction shall constitute a
28 separate violation. Civil penalties paid under this paragraph
29 shall be utilized to defray the costs of enforcement
30 associated with this subsection.

1 (2) In an action brought under this subsection, if the
2 court finds that a person has violated subsection (a) and the
3 violation involves a slot machine or skill game, the Office
4 of Enforcement Counsel may recover a civil penalty of not
5 more than \$1,000 per violation, in addition to any other
6 equitable relief which may be granted under paragraph (1).
7 Each slot machine or skill game involved in the prohibited
8 activity under subsection (a) shall constitute a separate
9 violation. Civil penalties paid under this paragraph shall be
10 utilized to defray the costs of enforcement associated with
11 this subsection.

12 * * *

13 (e.1) Construction.--Nothing in this section shall be
14 construed [to]:

15 (1) To prohibit any activity that is lawfully conducted
16 under any of the following:

17 [(1)] (i) The act of August 26, 1971 (P.L.351, No.91),
18 known as the State Lottery Law.

19 [(2)] (ii) The act of July 10, 1981 (P.L.214, No.67),
20 known as the Bingo Law.

21 [(3)] (iii) The act of December 19, 1988 (P.L.1262,
22 No.156), known as the Local Option Small Games of Chance Act.

23 [(4)] (iv) 4 Pa.C.S. (relating to amusements).

24 (2) To make lawful any activity prohibited under the act
25 of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

26 (3) To prohibit a skill-based contest.

27 (f) Definitions.--The following words and phrases when used
28 in this section shall have the meanings given to them in this
29 subsection unless the context clearly indicates otherwise:

30 "Coin-operated amusement game." As defined in 4 Pa.C.S. §

1 3102 (relating to definitions). A coin-operated amusement game
2 does not deliver or entitle the person playing or operating the
3 game to receive cash, cash equivalents or gift cards or
4 vouchers, billets, tickets, tokens or electronic credits to be
5 exchanged for cash or to receive merchandise or anything of
6 value.

7 "Consideration associated with a related product, service or
8 activity." Money or other value collected for a product,
9 service or activity which is offered in any direct or indirect
10 relationship to playing or participating in the simulated
11 gambling program. The term includes consideration paid for
12 computer time, Internet time, telephone calling cards and a
13 sweepstakes entry.

14 "Electronic video monitor." An electronic device capable of
15 showing moving or still images.

16 "Family entertainment center." A person conducting business
17 in this Commonwealth which business meets all of the following
18 criteria:

19 (1) Is located in a building that is owned, leased or
20 occupied by the family entertainment center for the primary
21 purpose of providing amusement and entertainment to the
22 public.

23 (2) Offers coin-operated amusement games, skill games,
24 arcade games, crane games and video games.

25 (3) Receives a majority of its gross receipts from the
26 operation of coin-operated amusement games, skill games,
27 arcade games, crane games and video games.

28 (4) Markets its business to families with children.

29 "Simulated gambling program." Any method intended to be used
30 by a person interacting with an electronic video monitor in a

1 business establishment that directly or indirectly implements
2 the predetermination of sweepstakes cash or cash-equivalent
3 prizes or otherwise connects the sweepstakes player or
4 participant with the cash or cash-equivalent prize.

5 "Skill." The knowledge, dexterity, adroitness, acumen or
6 other mental or physical ability of an individual.

7 "Skill-based contest." A competitive event among two or more
8 individuals or teams of individuals whereby individuals or teams
9 compete against each other in one or more games utilizing
10 electronic, computerized or mechanical devices, including, but
11 not limited to, personal computers and home video consoles, and
12 meets all of the following criteria:

13 (1) Winning individuals or teams are determined solely
14 by the skill of the individuals or teams relative to the
15 skill of other individuals or teams competing in the
16 competitive event.

17 (2) Elements of chance do not affect or have a de
18 minimis effect on the outcome of the game utilized in the
19 competitive event.

20 (3) One or more winning individuals or teams are awarded
21 a prize, including cash, that may exceed the cost of any
22 consideration paid for entry into the competitive event.

23 (4) The electronic, computerized or mechanical device
24 utilized in the competitive event is not a device or game
25 that may only be operated lawfully by a person with the
26 required authorization under 4 Pa.C.S.

27 "Skill game." An electronic, computerized, mechanical
28 contrivance, terminal, machine or other device that requires the
29 insertion of a coin, currency, ticket, token or similar object
30 to operate, play or activate a game the outcome of which is

1 determined by any element of skill of the player and which may
2 deliver or entitle the person playing or operating the device to
3 receive cash, cash equivalents or gift cards or vouchers,
4 billets, tickets, tokens or electronic credits to be exchanged
5 for cash or to receive merchandise or anything of value, whether
6 the payoff is made automatically from the device or manually.

7 "Slot machine." As defined in 4 Pa.C.S. § 1103 (relating to
8 definitions). The term includes a slot machine that accepts a
9 credit card or debit card. The term shall not include an antique
10 slot machine under subsection (c).

11 Section 2. This act shall take effect in 60 days.