

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-0866.01 Duane Gall x4335

HOUSE BILL 18-1234

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A BILL FOR AN ACT

101 **CONCERNING CLARIFICATION OF THE LAWS GOVERNING SIMULATED**
102 **GAMBLING ACTIVITY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill amends the definitions of key terms such as "electronic gaming machine", "gambling", "prize", and "simulated gambling device" as used in the criminal statutes governing simulated gambling devices. **Section 2** specifies that unlawful offering of a simulated gambling device occurs if a person receives payment indirectly or in a nonmonetary form for use of a simulated gambling device, and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
May 4, 2018

SENATE
Amended 2nd Reading
May 3, 2018

HOUSE
3rd Reading Unamended
March 26, 2018

HOUSE
Amended 2nd Reading
March 23, 2018

that the time of payment (i.e., before or after use of the device) is irrelevant.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 12-47.1-302, **amend**
3 **(1)(n)** as follows:

4 **12-47.1-302. Commission - powers and duties.** (1) In addition
5 to any other powers and duties set forth in this part 3, and notwithstanding
6 the designation of the Colorado limited gaming control commission under
7 section 12-47.1-201 as a **type 2** transfer, the commission shall
8 nonetheless have the following powers and duties:

9 (n) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(n)(II)
10 OF THIS SECTION, to inspect and examine without notice all premises
11 wherein limited gaming is conducted or devices or equipment used in
12 limited gaming are located, manufactured, sold, or distributed, and to
13 summarily seize, remove, and impound, without notice or hearing from
14 such premises any equipment, devices, supplies, books, or records for the
15 purpose of examination or inspection.

16 (II) SUBSECTION (1)(n)(I) OF THIS SECTION DOES NOT APPLY TO AN
17 OWNER, OPERATOR, EMPLOYEE, OR CUSTOMER OF A SIMULATED GAMBLING
18 DEVICE, OR OF A BUSINESS OFFERING SIMULATED GAMBLING DEVICES,
19 WHO:

20 (A) CEASED PARTICIPATING IN SUCH ACTIVITY ON OR BEFORE JULY
21 1, 2018; AND

22 (B) PROVIDES CLEAR DOCUMENTATION TO THE DISTRICT
23 ATTORNEY THAT A LAWFUL CONTRACT HAS BEEN ENTERED INTO FOR THE
24 SALE OR TRANSFER OF ALL SIMULATED GAMBLING DEVICES CONNECTED
25 WITH THE ACTIVITY TO A PERSON BY WHOM, OR INTO A JURISDICTION

1 WHERE, THE ACTIVITY IS LAWFUL; AND CONSUMMATES THE CONTRACT BY
2 ACTUALLY SELLING OR TRANSFERRING THE SIMULATED GAMBLING
3 DEVICES WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE CONTRACT WAS
4 ENTERED INTO OR AFTER ANY SIMULATED GAMBLING DEVICES THAT WERE
5 SEIZED, CONFISCATED, OR FORFEITED BY LAW ENFORCEMENT AUTHORITIES
6 HAVE BEEN RETURNED, WHICHEVER OCCURS LATER.

7 **SECTION 2.** In Colorado Revised Statutes, 16-13-303, amend
8 (2) as follows:

9 **16-13-303. Class 1 public nuisance.** (2) (a) EXCEPT AS
10 OTHERWISE PROVIDED IN SUBSECTION (2)(b) OF THIS SECTION, all fixtures
11 and contents of any building, structure, vehicle, or real property which
12 THAT is a class 1 public nuisance under subsection (1) of this section and
13 all property which THAT is a class 1 public nuisance under subsection
14 (1.5) of this section are subject to seizure, confiscation, and forfeiture as
15 provided in this part 3. In addition, the personal property of every kind
16 and description, including currency and other negotiable instruments and
17 vehicles, used in conducting, maintaining, aiding, or abetting any class 1
18 public nuisance is subject to seizure, confiscation, and forfeiture, as
19 provided in this part 3.

20 (b) SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY TO AN
21 OWNER, OPERATOR, EMPLOYEE, OR CUSTOMER OF A SIMULATED GAMBLING
22 DEVICE, OR OF A BUSINESS OFFERING SIMULATED GAMBLING DEVICES,
23 WHO:

24 (I) CEASED PARTICIPATING IN SUCH ACTIVITY ON OR BEFORE JULY
25 1, 2018; AND

26 (II) PROVIDES CLEAR DOCUMENTATION TO THE DISTRICT
27 ATTORNEY THAT:

1 (A) A LAWFUL CONTRACT HAS BEEN ENTERED INTO FOR THE SALE
2 OR TRANSFER OF ALL SIMULATED GAMBLING DEVICES CONNECTED WITH
3 THE ACTIVITY TO A PERSON BY WHOM, OR INTO A JURISDICTION WHERE,
4 THE ACTIVITY IS LAWFUL; AND

5 (B) CONSUMMATES THE CONTRACT BY ACTUALLY SELLING OR
6 TRANSFERRING THE SIMULATED GAMBLING DEVICES WITHIN ONE HUNDRED
7 EIGHTY DAYS AFTER THE CONTRACT WAS ENTERED INTO OR AFTER ANY
8 SIMULATED GAMBLING DEVICES THAT WERE SEIZED, CONFISCATED, OR
9 FORFEITED BY LAW ENFORCEMENT AUTHORITIES HAVE BEEN RETURNED,
10 WHICHEVER OCCURS LATER.

11 **SECTION 3.** In Colorado Revised Statutes, 18-10.5-102, **amend**
12 the introductory portion, (5), and (6); and **add** (3.5) as follows:

13 **18-10.5-102. Definitions.** As used in this ~~article~~ ARTICLE 10.5,
14 unless the context otherwise requires:

15 (3.5) "GAMBLING", WHETHER USED ALONE OR AS PART OF THE
16 PHRASE "SIMULATED GAMBLING" OR "SIMULATED GAMBLING DEVICE", HAS
17 THE MEANING SET FORTH IN SECTION 18-10-102 (2); EXCEPT THAT, FOR
18 PURPOSES OF THIS ARTICLE 10.5, THE EXCEPTION SET FORTH IN SECTION
19 18-10-102 (2)(a) DOES NOT APPLY.

20 (5) (a) "Prize" means a gift, award, gratuity, good, service, credit,
21 or anything else of value, INCLUDING A THING OF VALUE FOR A "GAIN" AS
22 DEFINED IN SECTION 18-10-102 (1), that may be transferred to ~~a person~~ AN
23 ENTRANT, whether or not possession of the prize is actually transferred or
24 placed on an account or other record as evidence of the intent to transfer
25 the prize.

26 (b) "Prize" does not include:

27 (I) Free or additional play; ~~or~~

1 (II) Any intangible or virtual award that cannot be converted into
2 money, goods, or services; OR

3 (III) A PAPER OR ELECTRONIC COUPON, WHETHER ISSUED TO A
4 PLAYER AS A SINGLE TICKET OR TOKEN OR AS MULTIPLE TICKETS OR
5 TOKENS, THAT IS WON IN RETURN FOR A SINGLE PLAY OF A DEVICE; HAS A
6 VALUE THAT DOES NOT EXCEED THE EQUIVALENT OF TWENTY-FIVE
7 DOLLARS; CANNOT BE EXCHANGED OR RETURNED FOR MONEY, MONETARY
8 CREDITS, OR ANY FINANCIAL CONSIDERATION; AND CANNOT BE USED TO
9 ACQUIRE OR EXCHANGED FOR ANY PRODUCT THAT IS, CONTAINS, OR CAN
10 BE USED AS A CONSTITUENT PART OF OR ACCESSORY FOR:

- 11 (A) ALCOHOL BEVERAGES;
- 12 (B) TOBACCO, TOBACCO PRODUCTS, MARIJUANA, OR SMOKING; OR
- 13 (C) FIREARMS OR AMMUNITION.

14 (6) (a) "Simulated gambling device" means a mechanically or
15 electronically operated machine, network, system, program, or device that
16 is used by an entrant and that displays simulated gambling displays on a
17 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
19 a person conducting the game or by that person's partners, affiliates,
20 subsidiaries, agents, or contractors; EXCEPT THAT the term DOES NOT
21 INCLUDE BONA FIDE AMUSEMENT DEVICES, AS AUTHORIZED IN SECTION
22 12-47-103 (30), THAT PAY NOTHING OF VALUE, CANNOT BE ADJUSTED TO
23 PAY ANYTHING OF VALUE, AND ARE NOT USED FOR GAMBLING.

24 "SIMULATED GAMBLING DEVICE" includes:

- 25 (a) (I) A video poker game or any other kind of video card game;
- 26 (b) (II) A video bingo game;
- 27 (c) (III) A video craps game;

1 ~~(d)~~ (IV) A video keno game;
2 ~~(e)~~ (V) A video lotto game;
3 ~~(f)~~ (VI) A video roulette game;
4 ~~(g)~~ (VII) A pot-of-gold;
5 ~~(h)~~ (VIII) An eight-liner;
6 ~~(k)~~ (IX) A slot machine, WHERE RESULTS ARE DETERMINED BY
7 REASON OF THE SKILL OF THE PLAYER OR THE APPLICATION OF THE
8 ELEMENT OF CHANCE, OR BOTH, AS PROVIDED BY SECTION 9 (4)(c) OF
9 ARTICLE XVIII OF THE COLORADO CONSTITUTION; and

10 ~~(h)~~ (X) A device that functions as, or simulates the play of, a slot
11 machine, WHERE RESULTS ARE DETERMINED BY REASON OF THE SKILL OF
12 THE PLAYER OR THE APPLICATION OF THE ELEMENT OF CHANCE, OR BOTH,
13 AS PROVIDED BY SECTION 9 (4)(c) OF ARTICLE XVIII OF THE COLORADO
14 CONSTITUTION.

15 (b) "SIMULATED GAMBLING DEVICE" DOES NOT INCLUDE ANY
16 PARI-MUTUEL TOTALISATOR EQUIPMENT THAT IS USED FOR PARI-MUTUEL
17 WAGERING ON LIVE OR SIMULCAST RACING EVENTS AND THAT HAS BEEN
18 APPROVED BY THE DIRECTOR OF THE DIVISION OF RACING EVENTS FOR
19 ENTITIES AUTHORIZED AND LICENSED UNDER ARTICLE 60 OF TITLE 12.

20 **SECTION 4.** In Colorado Revised Statutes, 18-10.5-103, **amend**
21 **(1)(a)**; and **add (11)** as follows:

22 **18-10.5-103. Prohibition - penalties - exemptions.** (1) A person
23 commits unlawful offering of a simulated gambling device if the person
24 offers, facilitates, contracts for, or otherwise makes available to or for
25 members of the public or members of an organization or club any
26 simulated gambling device where:

27 (a) The PERSON RECEIVES, DIRECTLY OR INDIRECTLY, A payment

1 OR TRANSFER of consideration is required or permitted for IN CONNECTION
2 WITH AN ENTRANT'S use of the SIMULATED GAMBLING device, for
3 admission to premises on which the SIMULATED GAMBLING device is
4 located, or for the purchase of any product or service associated with
5 access to or use of the SIMULATED GAMBLING device, REGARDLESS OF
6 WHETHER CONSIDERATION IN CONNECTION WITH SUCH USE, ADMISSION, OR
7 PURCHASE IS MONETARY OR NONMONETARY AND REGARDLESS OF
8 WHETHER IT IS PAID OR TRANSFERRED BEFORE THE SIMULATED GAMBLING
9 DEVICE IS USED BY AN ENTRANT; and

10 (11) THIS SECTION DOES NOT APPLY TO AN OWNER, OPERATOR,
11 EMPLOYEE, OR CUSTOMER OF A SIMULATED GAMBLING DEVICE, OR OF A
12 BUSINESS OFFERING SIMULATED GAMBLING DEVICES, WHO:

13 (a) CEASED PARTICIPATING IN SUCH ACTIVITY ON OR BEFORE JULY
14 1, 2018; AND

15 (b) PROVIDES CLEAR DOCUMENTATION TO THE DISTRICT
16 ATTORNEY THAT:

17 (I) A LAWFUL CONTRACT HAS BEEN ENTERED INTO FOR THE SALE
18 OR TRANSFER OF ALL SIMULATED GAMBLING DEVICES CONNECTED WITH
19 THE ACTIVITY TO A PERSON BY WHOM, OR INTO A JURISDICTION WHERE,
20 THE ACTIVITY IS LAWFUL; AND

21 (II) CONSUMMATES THE CONTRACT BY ACTUALLY SELLING OR
22 TRANSFERRING THE SIMULATED GAMBLING DEVICES WITHIN ONE HUNDRED
23 EIGHTY DAYS AFTER THE CONTRACT WAS ENTERED INTO OR AFTER ANY
24 SIMULATED GAMBLING DEVICES THAT WERE SEIZED, CONFISCATED, OR
25 FORFEITED BY LAW ENFORCEMENT AUTHORITIES HAVE BEEN RETURNED,
26 WHICHEVER OCCURS LATER.

27 **SECTION 5. Applicability.** This act applies to conduct occurring

1 on or after the effective date of this act.

2 **SECTION 6. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.