

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO
CORRECTED INTRODUCED**

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.

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, 18-10.5-102, **amend**
3 the introductory portion, (1) introductory portion, (1)(a), (1)(d), (1)(e),
4 (1)(h), (1)(i), (1)(j), (1)(k), (2), (3), (5), (6) introductory portion, (6)(k),
5 and (6)(l); **repeal** (7); and **add** (3.5) as follows:

6 **18-10.5-102. Definitions.** As used in this ~~article~~ ARTICLE 10.5,
7 unless the context otherwise requires:

8 (1) "Electronic gaming machine" means an electrically or
9 electronically operated machine or device that is used by ~~a sweepstakes~~
10 AN entrant and that displays the results of a game entry or game outcome
11 to a participant on a screen or other mechanism at a business location,
12 including a private club, that is owned, leased, or otherwise possessed, in
13 whole or in part, by a person ~~conducting the sweepstakes~~ OFFERING FOR
14 USE A SIMULATED GAMBLING DEVICE or by that person's partners,
15 affiliates, subsidiaries, agents, or contractors WHO OFFER FOR USE A
16 SIMULATED GAMBLING DEVICE. The term includes a machine or device
17 that:

18 (a) Uses a simulated game terminal as a representation of the
19 prizes associated with the results of the ~~sweepstakes~~ entries;

20 (d) Uses a mechanism that reveals the content of a predetermined
21 ~~sweepstakes~~ entry;

22 (e) Predetermines the prize results and stores those results for
23 delivery when the ~~sweepstakes~~ entry is revealed;

24 (h) Requires EITHER:

25 (I) Direct payment into the machine or device; or

1 (II) Remote activation of the machine or device upon payment to
2 the person offering the ~~sweepstakes game~~ SIMULATED GAMBLING DEVICE;

3 (i) Requires the purchase of a related product at additional cost in
4 order to participate in the ~~sweepstakes game~~ OR GAMES OFFERED ON A
5 SIMULATED GAMBLING DEVICE or makes a related product available for no
6 cost but under restrictive conditions;

7 (j) Reveals a ~~sweepstakes~~ prize incrementally even though the
8 progress of the images on the screen does not influence whether a prize
9 is awarded or the value of any prize awarded IN CONNECTION WITH AN
10 ENTRANT'S USE OF A SIMULATED GAMBLING DEVICE; or

11 (k) Determines and associates the prize with an entry or entries at
12 OR AFTER the time the ~~sweepstakes~~ SIMULATED GAMBLING DEVICE is
13 ~~entered~~ USED.

14 (2) "Enter" or "entry" means the act or process by which a person
15 becomes eligible to receive a prize offered in a ~~sweepstakes~~ CONNECTION
16 WITH AN ENTRANT'S USE OF A SIMULATED GAMBLING DEVICE.

17 (3) "Entrant" means a person who is or seeks to become eligible
18 to receive a prize offered in a ~~sweepstakes~~ CONNECTION WITH THE
19 PERSON'S USE OF A SIMULATED GAMBLING DEVICE.

20 (3.5) "GAMBLING", WHETHER USED ALONE OR AS PART OF THE
21 PHRASE "SIMULATED GAMBLING" OR "SIMULATED GAMBLING DEVICE", HAS
22 THE MEANING SET FORTH IN SECTION 18-10-102 (2); EXCEPT THAT, FOR
23 PURPOSES OF THIS ARTICLE 10.5, THE EXCEPTION SET FORTH IN SECTION
24 18-10-102 (2)(a) DOES NOT APPLY.

25 (5) "Prize" means a gift, award, gratuity, good, service, credit, or
26 anything else of value, INCLUDING A THING OF VALUE FOR A "GAIN" AS
27 DEFINED IN SECTION 18-10-102 (1), that may be transferred to a ~~person~~ AN

1 ENTRANT, whether or not possession of the prize is actually transferred or
2 placed on an account or other record as evidence of the intent to transfer
3 the prize. "Prize" does not include free or additional play or any
4 intangible or virtual award that cannot be converted into money, goods,
5 or services.

6 (6) "Simulated gambling device" means a mechanically or
7 electronically operated machine, network, system, program, or device that
8 is used by an entrant and that displays simulated gambling displays on a
9 screen or other mechanism at a business location, including a private
10 club, that is owned, leased, or otherwise possessed, in whole or in part, by
11 a person conducting the game or by that person's partners, affiliates,
12 subsidiaries, agents, or contractors; EXCEPT THAT the term DOES NOT
13 INCLUDE BONA FIDE AMUSEMENT DEVICES, AS AUTHORIZED IN SECTION
14 12-47-103 (30), THAT PAY NOTHING OF VALUE, CANNOT BE ADJUSTED TO
15 PAY ANYTHING OF VALUE, AND ARE NOT USED FOR GAMBLING, AS THAT
16 TERM IS DEFINED IN SUBSECTION (3.5) OF THIS SECTION. "SIMULATED
17 GAMBLING DEVICE" includes:

18 (k) A slot machine, WHERE RESULTS ARE DETERMINED BY REASON
19 OF THE SKILL OF THE PLAYER OR THE APPLICATION OF THE ELEMENT OF
20 CHANCE, OR BOTH, AS PROVIDED BY SECTION 9 (4)(c) OF ARTICLE XVIII
21 OF THE COLORADO CONSTITUTION; and

22 (l) A device that functions as, or simulates the play of, a slot
23 machine, WHERE RESULTS ARE DETERMINED BY REASON OF THE SKILL OF
24 THE PLAYER OR THE APPLICATION OF THE ELEMENT OF CHANCE, OR BOTH,
25 AS PROVIDED BY SECTION 9 (4)(c) OF ARTICLE XVIII OF THE COLORADO
26 CONSTITUTION.

27 (7) ~~"Sweepstakes" means any game, advertising scheme or plan,~~

1 ~~or other promotion that, with or without payment of any consideration,~~
2 ~~allows a person to enter to win or become eligible to receive a prize.~~

3 **SECTION 2.** In Colorado Revised Statutes, 18-10.5-103, **amend**
4 (1) as follows:

5 **18-10.5-103. Prohibition - penalties - exemptions.** (1) A person
6 commits unlawful offering of a simulated gambling device if the person
7 offers, facilitates, contracts for, or otherwise makes available to or for
8 members of the public or members of an organization or club any
9 simulated gambling device where:

10 (a) THE PERSON RECEIVES, DIRECTLY OR INDIRECTLY, A payment
11 OR TRANSFER of consideration ~~is required or permitted for~~ IN CONNECTION
12 WITH AN ENTRANT'S use of the SIMULATED GAMBLING device, ~~for~~
13 admission to premises on which the SIMULATED GAMBLING device is
14 located, or ~~for~~ the purchase of any product or service associated with
15 access to or use of the SIMULATED GAMBLING device, REGARDLESS OF
16 WHETHER CONSIDERATION IN CONNECTION WITH SUCH USE, ADMISSION, OR
17 PURCHASE IS MONETARY OR NONMONETARY AND REGARDLESS OF
18 WHETHER IT IS PAID OR TRANSFERRED BEFORE THE SIMULATED GAMBLING
19 DEVICE IS USED BY AN ENTRANT; and

20 (b) As a consequence of, in connection with, or after the play of
21 the simulated gambling device, an award of a prize is ~~expressly or~~
22 ~~implicitly~~ DIRECTLY OR INDIRECTLY made to ~~a person~~ AN ENTRANT using
23 the device.

24 **SECTION 3. Applicability.** This act applies to conduct occurring
25 on or after the effective date of this act.

26 **SECTION 4. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.