

AN ACT

To amend Section 12 of Am. Sub. H.B. 386 of the 129th General Assembly to extend the moratorium on new establishments conducting sweepstakes by sweepstakes terminal devices, to require establishments to file a new affidavit, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That Section 12 of Am. Sub. H.B. 386 of the 129th General Assembly be amended to read as follows:

Sec. 12. (A) As used in this section:

(1) "Sweepstakes" means any game, contest, advertising scheme or plan, or other promotion, but does not include bingo, or games or lotteries conducted by the state lottery commission, in which consideration is not required for a person to enter to win or to become eligible to receive any prize, the determination of which is based upon chance.

(2) "Sweepstakes terminal device" means a mechanical, video, digital, or electronic machine or device that is owned, leased, or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant ~~who purchases a tangible product~~ or to reveal the results of a sweepstakes, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device whether or not any of the following apply:

(a) The device is server-based.

(b) The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.

(c) The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.

(d) The device selects prizes from a predetermined finite pool of entries.

(e) The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.

(f) The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.

(g) The device utilizes software to create a game result.

(h) The device requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device.

(i) The device requires direct payment into the device, or remote activation of the device.

(j) The device reveals the prize incrementally, even though the device does not influence the awarding of a prize or the value of any prize awarded.

(k) The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

(l) The device is a slot machine or other form of electrical, mechanical, or computer game.

(3) "Enter" means the purchase of a tangible product by which a person becomes eligible to receive any prize offered in a sweepstakes.

(4) "Entry" means one event from the initial activation of the sweepstakes terminal device until all sweepstakes prize results from that activation are revealed.

(5) "Prize" means any gift, award, gratuity, good, service, credit, reward, or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

(6) "Sweepstakes establishment" means any business or premises in or upon which one or more persons conduct one or more sweepstakes through the use of one or more sweepstakes terminal devices.

(B) On and after ~~the effective date of this section June 11, 2012,~~ and through June 30, ~~2013~~ 2014, no person shall conduct a sweepstakes through the use of a sweepstakes terminal device that has not conducted such a sweepstakes before ~~the effective date of this section June 11, 2012.~~ All sweepstakes establishments conducting a sweepstakes through the use of a sweepstakes terminal device, whether or not licensed by a local entity, in existence and operating before the effective date of this section may continue to operate at only their current locations after ~~the effective date of this section June 11, 2012.~~ Upon the expiration of any current occupancy permit, permission to operate, or other permit or license issued by a local entity for a sweepstakes establishment that was in existence before the effective date of this section, the local entity shall renew the occupancy permits or licenses or grant permission at those pre-existing locations in accordance with that local entity's current permit or licensing ordinances or procedures. This division is not intended to supersede any similar action taken by a county, township, or municipal corporation.

(C) The General Assembly finds the following:

(1) The state has experienced a proliferation of retail businesses that utilize a sweepstakes to facilitate sales. These establishments utilize computer terminals or stand alone machines, which currently are not consistently and uniformly regulated statewide and have created a window of opportunity for rogue operators to open in cities across the state.

(2) Judges across the state have issued conflicting rulings regarding the legality of these sweepstakes establishments.

(3) The General Assembly has determined that a moratorium on new retail sweepstakes establishments is needed while legislation is being considered.

~~(D)~~(1) Within thirty days after ~~the effective date of this section June 11, 2012,~~ a sweepstakes establishment conducting a sweepstakes through the use of a sweepstakes terminal device in existence and operating before ~~the effective~~ that date ~~of this section~~ shall file an affidavit with the Attorney General certifying that the establishment was in existence and operating before ~~the effective~~ that date ~~of this section~~ and indicating the address of the establishment.

If a sweepstakes establishment was in existence and operating before ~~the effective date of this section June 11, 2012,~~ but was involuntarily shut down by law enforcement before that date, solely for the purposes of this moratorium those sweepstakes establishments shall be considered to be in existence and operating before ~~the effective date of this section June 11, 2012.~~ If the sweepstakes establishment is permitted to resume operations pursuant to court order, the sweepstakes establishment shall have thirty days from the date of resuming operations to file the required affidavit.

(2) Within thirty days after the effective date of this amendment, a sweepstakes establishment conducting a sweepstakes through the use of a sweepstakes terminal device in existence and operating before June 11, 2012, shall file an affidavit with the Attorney General. The affidavit shall be made under oath on a form prescribed by the Attorney General and shall contain information as prescribed by the Attorney General, including, but not limited to, the appropriate names, as determined by the Attorney General, of owners or employees of the establishment, the date that the establishment began conducting sweepstakes through the use of a sweepstakes terminal device, and the date that the establishment began making such sweepstakes available to the general public. Immediately, on the effective date of this amendment, the Attorney General shall send notice of the requirement to file the affidavit required by this division by regular mail to all sweepstakes establishments for which the Attorney General has

an address on record and shall post information about the requirement on the Attorney General's web site.

(E)(1) On and after ~~the effective date of this section~~ June 11, 2012, and through June 30, ~~2013~~ 2014, the Attorney General or the appropriate county prosecuting attorney may bring an action for injunction against a person that conducts a sweepstakes through the use of a sweepstakes terminal device that has not conducted such a sweepstakes before ~~the effective date of this section~~ June 11, 2012. If such a person continues to conduct such a sweepstakes after an injunction is granted, a contempt action may be brought by any means necessary.

(2) If a sweepstakes establishment does not file the affidavit as required under division (D)(2) of this section, the Attorney General or the appropriate county prosecuting attorney may bring an action for injunction to prohibit the sweepstakes establishment from conducting a sweepstakes through the use of a sweepstakes terminal device. If the sweepstakes establishment continues to conduct such a sweepstakes after an injunction is granted, a contempt action may be brought by any means necessary.

(3) The Attorney General may impose a civil penalty of not more than one thousand dollars for each day a person violates division (D)(2) of this section. The Attorney General shall commence and prosecute to judgment a civil action in a court of competent jurisdiction to collect any civil penalty imposed under this section that remains unpaid. All amounts collected shall be deposited into the Attorney General Reimbursement Fund created in section 109.11 of the Revised Code and shall be used by the Attorney General solely to enforce this section.

(4) If the Attorney General becomes aware that false information has been provided on the affidavit required under division (D)(2) of this section, the Attorney General shall refer the appropriate evidence to the appropriate county prosecuting attorney, and the county prosecuting attorney may initiate and prosecute a criminal action against any person that provides false information on the affidavit required under division (D)(2) of this section in any court of competent jurisdiction in this state for a violation of section 2921.13 of the Revised Code.

(F)(1) Nothing in this section as amended by S.B. 115 of the 130th General Assembly shall be construed to do either of the following:

(a) Authorize or permit conduct prohibited, either before or after June 11, 2012, by any provision of Chapter 2915. of the Revised Code; or

(b) Exempt from the application of Chapter 2915. of the Revised Code any sweepstakes conducted by any person.

(2) This section as amended by S.B. 115 of the 130th General Assembly

does not authorize or permit any person or entity to conduct a game of chance or a scheme of chance as defined by division (C) or (D) of section 2915.01 of the Revised Code.

SECTION 2. That existing Section 12 of Am. Sub. H.B. 386 of the 129th General Assembly is hereby repealed.

SECTION 3. This act is an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reasons for such necessity are the same as the findings of the General Assembly described in the act. Therefore, this act goes into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 115

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____