

**As Reported by the Senate State Government Oversight and
Reform Committee**

**130th General Assembly
Regular Session
2013-2014**

Sub. S. B. No. 115

Senator Faber

Cosponsor: Senator Obhof

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A B I L L

To amend Section 12 of Am. Sub. H.B. 386 of the 129th 1
General Assembly to extend the moratorium on new 2
establishments conducting sweepstakes by 3
sweepstakes terminal devices, to require 4
establishments to file a new affidavit, and to 5
declare an emergency. 6

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 7
General Assembly be amended to read as follows: 8

Sec. 12. (A) As used in this section: 9

(1) "Sweepstakes" means any game, contest, advertising scheme 10
or plan, or other promotion, but does not include bingo, or games 11
or lotteries conducted by the state lottery commission, in which 12
consideration is not required for a person to enter to win or to 13
become eligible to receive any prize, the determination of which 14
is based upon chance. 15

(2) "Sweepstakes terminal device" means a mechanical, video, 16
digital, or electronic machine or device that is owned, leased, or 17
otherwise possessed by any person conducting a sweepstakes, or by 18

that person's partners, affiliates, subsidiaries, or contractors, 19
that is intended to be used by a sweepstakes participant ~~who~~ 20
~~purchases a tangible product~~ to enter a sweepstakes or to reveal 21
the results of a sweepstakes, and that is capable of displaying 22
information on a screen or other mechanism. A device is a 23
sweepstakes terminal device whether or not any of the following 24
apply: 25

(a) The device is server-based. 26

(b) The device uses a simulated game terminal as a 27
representation of the prizes associated with the results of the 28
sweepstakes entries. 29

(c) The device utilizes software such that the simulated game 30
influences or determines the winning of or value of the prize. 31

(d) The device selects prizes from a predetermined finite 32
pool of entries. 33

(e) The device utilizes a mechanism that reveals the content 34
of a predetermined sweepstakes entry. 35

(f) The device predetermines the prize results and stores 36
those results for delivery at the time the sweepstakes entry 37
results are revealed. 38

(g) The device utilizes software to create a game result. 39

(h) The device requires deposit of any money, coin, or token, 40
or the use of any credit card, debit card, prepaid card, or any 41
other method of payment to activate the electronic machine or 42
device. 43

(i) The device requires direct payment into the device, or 44
remote activation of the device. 45

(j) The device reveals the prize incrementally, even though 46
the device does not influence the awarding of a prize or the value 47
of any prize awarded. 48

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

(1) 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 80
this section, the local entity shall renew the occupancy permits 81
or licenses or grant permission at those pre-existing locations in 82
accordance with that local entity's current permit or licensing 83
ordinances or procedures. This division is not intended to 84
supersede any similar action taken by a county, township, or 85
municipal corporation. 86

(C) The General Assembly finds the following: 87

(1) The state has experienced a proliferation of retail 88
businesses that utilize a sweepstakes to facilitate sales. These 89
establishments utilize computer terminals or stand alone machines, 90
which currently are not consistently and uniformly regulated 91
statewide and have created a window of opportunity for rogue 92
operators to open in cities across the state. 93

(2) Judges across the state have issued conflicting rulings 94
regarding the legality of these sweepstakes establishments. 95

(3) The General Assembly has determined that a moratorium on 96
new retail sweepstakes establishments is needed while legislation 97
is being considered. 98

~~(D)(1)~~ Within thirty days after ~~the effective date of this~~ 99
~~section~~ June 11, 2012, a sweepstakes establishment conducting a 100
sweepstakes through the use of a sweepstakes terminal device in 101
existence and operating before ~~the effective~~ that date of ~~this~~ 102
~~section~~ shall file an affidavit with the Attorney General 103
certifying that the establishment was in existence and operating 104
before ~~the effective~~ that date of ~~this section~~ and indicating the 105
address of the establishment. 106

If a sweepstakes establishment was in existence and operating 107
before ~~the effective date of this section~~ June 11, 2012, but was 108
involuntarily shut down by law enforcement before that date, 109
solely for the purposes of this moratorium those sweepstakes 110

establishments shall be considered to be in existence and 111
operating before ~~the effective date of this section June 11, 2012.~~ 112
If the sweepstakes establishment is permitted to resume operations 113
pursuant to court order, the sweepstakes establishment shall have 114
thirty days from the date of resuming operations to file the 115
required affidavit. 116

(2) Within thirty days after the effective date of this 117
amendment, a sweepstakes establishment conducting a sweepstakes 118
through the use of a sweepstakes terminal device in existence and 119
operating before June 11, 2012, shall file an affidavit with the 120
Attorney General. The affidavit shall be made under oath on a form 121
prescribed by the Attorney General and shall contain information 122
as prescribed by the Attorney General, including, but not limited 123
to, the appropriate names, as determined by the Attorney General, 124
of owners or employees of the establishment, the date that the 125
establishment began conducting sweepstakes through the use of a 126
sweepstakes terminal device, and the date that the establishment 127
began making such sweepstakes available to the general public. 128
Immediately, on the effective date of this amendment, the Attorney 129
General shall send notice of the requirement to file the affidavit 130
required by this division by regular mail to all sweepstakes 131
establishments for which the Attorney General has an address on 132
record and shall post information about the requirement on the 133
Attorney General's web site. 134

(E)(1) On and after ~~the effective date of this section June~~ 135
11, 2012, and through June 30, ~~2013~~ 2014, the Attorney General or 136
the appropriate county prosecuting attorney may bring an action 137
for injunction against a person that conducts a sweepstakes 138
through the use of a sweepstakes terminal device that has not 139
conducted such a sweepstakes before ~~the effective date of this~~ 140
~~section June 11, 2012.~~ If such a person continues to conduct such 141
a sweepstakes after an injunction is granted, a contempt action 142

may be brought by any means necessary. 143

(2) If a sweepstakes establishment does not file the 144
affidavit as required under division (D)(2) of this section, the 145
Attorney General or the appropriate county prosecuting attorney 146
may bring an action for injunction to prohibit the sweepstakes 147
establishment from conducting a sweepstakes through the use of a 148
sweepstakes terminal device. If the sweepstakes establishment 149
continues to conduct such a sweepstakes after an injunction is 150
granted, a contempt action may be brought by any means necessary. 151

(3) The Attorney General may impose a civil penalty of not 152
more than one thousand dollars for each day a person violates 153
division (D)(2) of this section. The Attorney General shall 154
commence and prosecute to judgment a civil action in a court of 155
competent jurisdiction to collect any civil penalty imposed under 156
this section that remains unpaid. All amounts collected shall be 157
deposited into the Attorney General Reimbursement Fund created in 158
section 109.11 of the Revised Code and shall be used by the 159
Attorney General solely to enforce this section. 160

(4) If the Attorney General becomes aware that false 161
information has been provided on the affidavit required under 162
division (D)(2) of this section, the Attorney General shall refer 163
the appropriate evidence to the appropriate county prosecuting 164
attorney, and the county prosecuting attorney may initiate and 165
prosecute a criminal action against any person that provides false 166
information on the affidavit required under division (D)(2) of 167
this section in any court of competent jurisdiction in this state 168
for a violation of section 2921.13 of the Revised Code. 169

(F)(1) Nothing in this section as amended by S.B. 115 of the 170
130th General Assembly shall be construed to do either of the 171
following: 172

(a) Authorize or permit conduct prohibited, either before or 173

<u>after June 11, 2012, by any provision of Chapter 2915. of the</u>	174
<u>Revised Code; or</u>	175
<u>(b) Exempt from the application of Chapter 2915. of the</u>	176
<u>Revised Code any sweepstakes conducted by any person.</u>	177
<u>(2) This section as amended by S.B. 115 of the 130th General</u>	178
<u>Assembly does not authorize or permit any person or entity to</u>	179
<u>conduct a game of chance or a scheme of chance as defined by</u>	180
<u>division (C) or (D) of section 2915.01 of the Revised Code.</u>	181
Section 2. That existing Section 12 of Am. Sub. H.B. 386 of	182
the 129th General Assembly is hereby repealed.	183
Section 3. This act is an emergency measure necessary for the	184
immediate preservation of the public peace, health, and safety.	185
The reasons for such necessity are the same as the findings of the	186
General Assembly described in the act. Therefore, this act goes	187
into immediate effect.	188