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Final Analysis
Legislative Service Commission

Am. Sub. H.B. 177
127th General Assembly
(As Passed by the General Assembly)

Reps. Blessing, Adams, Yuko, Webster

Sens. Jacobson, Harris, Amstutz

Effective date: Emergency, October 25, 2007

ACT SUMMARY

- Allows the same person, association, trust, or corporation to own or operate two separate race tracks in Ohio, and generally eliminates the prohibition against the same person, association, trust, or corporation from being issued more than one horse-racing permit in Ohio.
- Modifies the definition of "slot machine" and "skill-based amusement machine" for purposes of the Gambling Law.
- Creates a limit on the redemption value of prizes associated with skill-based amusement machines.
- Prohibits certain items from being given in exchange for playing or winning on a skill-based amusement machine.
- Clarifies regulatory authority pertaining to skill-based amusement machines.
- Declares an emergency.

CONTENT AND OPERATION

Changes relating to ownership of more than one race track in Ohio

Prior law generally prohibited more than one permit from being granted to the same person, association, trust, or corporation for the holding or conducting of a horse-racing meeting at more than one track, place, or enclosure in Ohio. The act eliminates this prohibition, and further provides that, notwithstanding any other

provision of the Horse Racing Act, a person, association, trust, or corporation may own or operate two separate facilities in Ohio that are conducting horse-racing meetings. (R.C. 3769.07(C).) Under continuing law, the State Racing Commission is authorized to issue a second permit for a maximum of 56 days of racing for any one place, track, or enclosure if the Commission determines that the issuance of the second permit is not against the public interest. The act retains a provision specifying that a second permit cannot be issued to any corporation having one or more shareholders owning, or to any person, association, or trust that owns or that has any members owning, an interest in any other permit the Commission issues for the operation of racing, in the same year, at any other track, place, or enclosure in Ohio (R.C. 3769.07(B) and (C)).

Skill-based amusement machines

Under prior law, a "skill-based amusement machine" was defined as a skill-based amusement device, such as a mechanical, electronic, video, or digital device or machine that, regardless of whether it required payment for use through a coin or bill validator or accepted an item of consideration or value to participate in the machine's offering or to activate it, met three requirements: (1) it involved a task, game, play, contest, competition, or tournament in which the player actively participated, (2) the outcome of a player's participation was not determined largely or wholly by chance, and (3) the outcome of the participation was not controlled by a person not actively participating in the game. Continuing law, unchanged by the act except as noted below, sets the following additional conditions for the machine's operation: (4) if the machine involves a single task, game, play, contest, competition, or tournament, the individual may be awarded prizes based on the results of play, (5) advance play for a single task, game, play, contest, competition, or tournament may be purchased and the cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play, and (6) to the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament must have a defined starting and ending date and be open to participants in competition for scoring and ranking results toward the awarding of prizes that are stated prior to the start of the contest, competition, or tournament. The terms "task," "game," and "play" in this definition refer to one event from initial activation of the device or machine until the results of play are determined without payment of additional consideration. (R.C. 2915.01(AAA).)

The act substitutes a new definition of "skill-based amusement machine" for purposes of the Gambling Law. It defines a "skill-based amusement machine" to be a mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers

redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:

- The wholesale value of the merchandise prize awarded as a result of the single play of a machine does not exceed \$10;
- Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than \$10;
- Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than \$10 times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
- Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.

A device, however, is not a "skill-based amusement machine" and must be considered a "slot machine" if it pays cash or if one or more of the following apply:

- The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game.
- Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score.
- The outcome of the game, or the value of the redeemable voucher or merchandise prize for winning the game, can be controlled by a source other than any player playing the game.
- The success of any player is or may be determined by a chance event that cannot be altered by player actions.
- The ability of any player to succeed at the game is determined by game features not visible to or known to the player.
- The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.

The act eliminates the elements of the definition of a skill-based amusement machine described in items (1) through (3) above. It retains the elements described in items (4) through (6) above, but, as already noted, limits the prizes to merchandise prizes and redeemable vouchers having a value that does not

exceed \$10. The act also removes a reference to "task," but retains references to "game" and "play." (R.C. 2915.01(AAA).)

The act provides that the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of a game does not make the device a skill-based amusement machine (R.C. 2915.01(AAA)(4)).

The act defines "merchandise prize" to mean any item of value, but not including any of the following: (1) cash, gift cards, or any equivalent thereof, (2) plays on games of chance, state lottery tickets, bingo, or instant bingo, (3) firearms, tobacco, or alcoholic beverages, or (4) a redeemable voucher that is redeemable for any of the items listed in items (1), (2), or (3) above (R.C. 2915.01(BBB)). "Redeemable voucher" means any ticket, token, coupon, receipt, or other noncash representation of value (R.C. 2915.01(CCC)).

Slot machines

The act retains the provision of current law that specifies that a "slot machine" does not include a skill-based amusement machine (R.C. 2915.01(VV)(2)). An element of the prior definition of "slot machine" required that a player of the machine give a thing of value in the hope of gain, the outcome of which was determined largely or wholly by chance. The act removes from the definition the phrase "the outcome of which is determined largely or wholly by chance." (R.C. 2915.01(VV)(1).)

The act does not affect the provisions of ongoing law that (1) include a slot machine within the definition of "scheme of chance" and (2) prohibit knowingly engaging in conduct that facilitates any scheme of chance, punishable as a first degree misdemeanor on a first offense and a fifth degree felony on subsequent offenses (R.C. 2915.01(C) and 2915.02(A)(2)).

New limitations on the redemption of prizes

Continuing law allows players of skill-based amusement machines to receive prizes based on the results of their play. The act, however, provides that if a noncash prize, toy, or novelty is received as a reward for, or a free or reduced-priced game is won by, playing or operating a skill-based amusement machine, persons are prohibited from giving in exchange for it any item excluded from the definition of "merchandise prize" (see above) (R.C. 2915.06(A)).

A violation of the act's prohibition is a misdemeanor of the first degree for each redemption of prize involved in the violation and a felony of the fifth degree on subsequent offenses, and the court must impose upon the offender the

maximum fine authorized to be imposed for a felony of the fifth degree (R.C. 2915.06(B)(2)). All of these violations constitute the new offense of "skill-based amusement machine prohibited conduct." In addition, this new offense becomes an additional type of "gambling offense" for purposes of the Gambling Law (R.C. 2915.01(G)(1)).

Regulation of skill-based amusement machines

The act provides that any regulation of skill-based amusement machines is governed by the Gambling Law and not by the Consumer Sales Practices Act (R.C. 2915.061).

HISTORY

ACTION	DATE
Introduced	04-24-07
Reported, H. State Government and Elections	10-09-07
Passed House (83-13)	10-10-07
Reported, S. Rules	10-17-07
Passed Senate (26-7)	10-17-07
House concurred in Senate amendments (86-10)	10-23-07

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