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Bill Analysis

Legislative Service Commission

Am. Sub. H.B. 177* 127th General Assembly (As Reported by S. Rules)

Reps. Blessing, Chandler, Adams, Yuko, Webster

BILL SUMMARY

- Allows the same person, association, trust, or corporation to own and operate two separate race tracks, 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.
- 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

Current law generally prohibits 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 bill 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

* This analysis was prepared before the report of the Senate Rules Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

horse-racing meetings. (R.C. 3769.07(C).) 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 bill 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 current law, a "skill-based amusement machine" is defined as a mechanical, electronic, video, or digital device or machine that, regardless of whether it accepts an item of consideration or value to activate it, meets three requirements: (1) it involves a task, game, play, contest, competition, or tournament in which the player actively participates, (2) the outcome of a player's participation is not determined largely or wholly by chance, (3) the outcome of the participation is not controlled by a person not actively participating in the game, (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. Furthermore, a player can be awarded a prize based upon the results of play. (R.C. 2915.01(AAA).)

The bill 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 bill eliminates the elements of the definition of a skill-based amusement machine described in items (1) through (3) above, but retains the elements described in items (4) through (6) above, although it limits the prizes to merchandise prizes and redeemable vouchers having a value that does not exceed \$10. (R.C. 2915.01(AAA).)

The bill 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 bill 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 bill 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 current definition of "slot machine" provides that it is any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain, the outcome of which is determined largely or wholly by chance. The bill removes from the definition the phrase "the outcome of which is determined largely or wholly by chance." (R.C. 2915.01(VV)(1).)

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 bill, 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 any item excluded from the definition of "merchandise prize" (see above) (R.C. 2915.06(A)).

A violation of the bill'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 bill 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	10-09-07
Passed House (83-13)	10-10-07
Reported, S. Rules	---

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