



Ohio Legislative Service Commission

Bill Analysis

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S.B. 115*

130th General Assembly
(As Introduced)

BILL SUMMARY

- Extends by one year a moratorium that prohibits a person from conducting a sweepstakes through the use of a sweepstakes terminal device if the person has not conducted such a sweepstakes before June 11, 2012.
- Requires a sweepstakes establishment to file a new affidavit with the Attorney General.
- Extends by one year the authority of the Attorney General or the appropriate county prosecuting attorney to bring an injunction action and a contempt action against a sweepstakes establishment that violates the moratorium.
- Permits the Attorney General to impose a civil penalty of not more than \$1,000 for each day a person violates the requirement to file a new affidavit.
- Allows the Attorney General to initiate and prosecute a criminal action for falsification against any person that provides false information on the new affidavit.
- Declares an emergency.

CONTENT AND OPERATION

Sweepstakes establishment moratorium

The bill extends to June 20, 2014, from June 30, 2013, a moratorium that went into effect on June 11, 2012 (the effective date of Am. Sub. H.B. 386 of the 129th General Assembly), that prohibits a person from conducting a sweepstakes through the use of a sweepstakes terminal device if the person has not conducted such a sweepstakes before June 11, 2012. As provided in continuing law, all sweepstakes establishments

* This analysis was prepared before the introduction of the bill was recorded in the Senate Journal.

conducting a sweepstakes through the use of a sweepstakes terminal device, whether or not licensed by a local entity, in existence and operating before June 11, 2012, may continue to operate at only their current locations after June 11, 2012.

Affidavit

New affidavit

Under the bill, within 30 days after the bill's effective date, a sweepstakes establishment conducting a sweepstakes through the use of a sweepstakes terminal device in existence and operating before June 11, 2012, and any such establishment in existence and operating after that date and before the bill's effective date must file an affidavit with the Attorney General. The affidavit must be made under oath on forms prescribed by the Attorney General, and must 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 sweepstakes available to the general public.

Prior affidavit

Under ongoing law, within 30 days after June 11, 2012, or within 30 days after an establishment is permitted to resume operations pursuant to court order, a sweepstakes establishment conducting a sweepstakes through the use of a sweepstakes terminal device in existence and operating before that date must file an affidavit with the Attorney General certifying that the establishment was in existence and operating before that date and indicating the address of the establishment.

Actions and penalties

Injunction

The bill extends the existing authority through June 20, 2014, of the Attorney General or the appropriate county prosecuting attorney to 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 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.

Civil penalty

The bill permits the Attorney General to impose a civil penalty of not more than \$1,000 for each day a person violates the requirement to file the new affidavit described



above. The Attorney General must commence and prosecute to judgment a civil action in a court of competent jurisdiction to collect any civil penalty imposed that remains unpaid. All amounts collected must be deposited into the Attorney General Reimbursement Fund, and must be used by the Attorney General solely to enforce the bill's provisions.

Criminal action

Under the bill, the Attorney General can initiate and prosecute a criminal action for falsification, in any court of competent jurisdiction in Ohio, against any person that provides false information on the new affidavit described above. Falsification generally is a first degree misdemeanor. The bill specifies that when proceeding under this provision, the Attorney General has all rights, privileges, and powers of prosecuting attorneys, and any assistant or special counsel designated by the Attorney General for that purpose has the same authority.

Emergency clause

The bill declares that it is an emergency measure and therefore goes into immediate effect. The reasons given for the emergency are the same as the findings of the General Assembly described in continuing law. Those findings are as follows:

(1) Ohio 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 Ohio.

(2) Judges across Ohio 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.¹

HISTORY

ACTION	DATE
Introduced	---

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¹ Sections 1 and 3.

