

Regular Session, 2014

SENATE BILL NO. 311

BY SENATOR MORRELL

GAMING. Prohibits gambling by electronic sweepstakes device. (8/1/14)

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AN ACT

To enact R.S. 14:90.7, relative to gambling; to create the crime of gambling by electronic sweepstakes device; to provide for definitions; to provide for criminal penalties; to provide for applicability; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:90.7 is hereby enacted to read as follows:

**§90.7. Gambling by electronic sweepstakes device**

**A. The Louisiana Legislature finds that in recent years various companies have developed electronic machines and devices to enable gambling through pretextual sweepstakes relationships with Internet services, telephone cards, and other products, and that such electronic sweepstakes systems using electronic gambling machines, computer terminals, and other means of presented simulated gambling, are contrary to the public policy of this state.**

**B. Gambling by electronic sweepstakes device is the intentional conducting of, or directly assisting in the conducting of, as a business any game, contest, lottery, or contrivance whereby a person risks the loss of anything of**

1 value in order to realize a profit, through the operation of an electronic gaming  
2 machine or device that does or purports to do either of the following:

3 (1) Conduct a sweepstakes through the use of a simulated gambling  
4 device, including the entry process or the revealing of a prize.

5 (2) Promote a sweepstakes that is conducted through the use of a  
6 simulated gambling device, including the entry process or the revealing of a  
7 prize.

8 **C. For the purposes of this Section, the following definitions shall apply:**

9 (1) "Electronic gaming machine or device" means a mechanically,  
10 electrically, or electronically operated machine or device that is intended to be  
11 used by a sweepstakes entrant and that displays the results of a game entry or  
12 game outcome to a participant on a screen or other mechanism at a business  
13 location, including a private club, that is owned, leased, or otherwise possessed,  
14 in whole or in part, by any person conducting the sweepstakes or by that  
15 person's partners, affiliates, subsidiaries, agents, or contractors. The term  
16 includes an electronic gaming machine or device which includes any of the  
17 following characteristics:

18 (a) Uses a simulated game terminal as a representation of the prizes  
19 associated with the results of the sweepstakes entries.

20 (b) Uses software that simulates a game that influences or determines  
21 the winning or value of the prize.

22 (c) Selects prizes from a predetermined finite pool of entries.

23 (d) Uses a mechanism that reveals the content of a predetermined  
24 sweepstakes entry.

25 (e) Predetermines the prize results and restores those results for delivery  
26 at the time the sweepstakes entry is revealed.

27 (f) Uses software to create a game result.

28 (g) Requires a deposit of any money, coin or token, or the use of any  
29 credit card, debit card, prepaid card, or other method of payment to activate

1 **the electronic gaming machine or device.**

2 **(h) Requires direct payment into the electronic gaming machine or**  
3 **device or remote activation of the electronic gaming machine or device.**

4 **(i) Requires purchase of a related product and the related product has**  
5 **legitimate value.**

6 **(j) Reveals the prize incrementally even though it may not influence**  
7 **whether a prize is awarded or the value of any prize awarded.**

8 **(k) Determines and associates the prize with an entry or entries at the**  
9 **time the sweepstakes is entered.**

10 **(2) "Enter" or "entry" means the act or process by which a person**  
11 **becomes eligible to receive any prize offered in a sweepstakes.**

12 **(3) "Prize" means any gift, award, gratuity, good, service, credit, or**  
13 **anything else of value which may be transferred to a person whether or not**  
14 **possession of the prize is actually transferred or placed on an account or other**  
15 **record as evidence of the intent to transfer the prize. "Prize" shall not include**  
16 **free or additional play or intangible or virtual prizes that cannot be converted**  
17 **into money or merchandise.**

18 **(4) "Simulated gambling device" means a mechanically or electronically**  
19 **operated machine, network, system, or device that is intended to be used by an**  
20 **entrant to a game promotion or sweepstakes and that displays a simulated**  
21 **gambling display on a screen or other mechanism at a business location,**  
22 **including a private club, that is owned, leased, or otherwise possessed, in whole**  
23 **or in part, by any person conducting the game or by that person's partners,**  
24 **affiliates, subsidiaries, agents, or contractors. The term shall include but is not**  
25 **limited to:**

26 **(a) A video poker game or any other kind of video card game.**

27 **(b) A video bingo game.**

28 **(c) A video craps game.**

29 **(d) A video keno game.**

1                   (e) A video lotto game.

2                   (f) Eight liner.

3                   (g) Pot-of-gold.

4                   (h) A video game based on or involving the random or chance matching  
5 of different pictures, words, numbers, or symbols.

6                   (i) A personal computer of any size or configuration that performs any  
7 of the functions of an electronic gaming machine or device as defined in this  
8 Section.

9                   (j) A slot machine.

10                  (5) "Sweepstakes" means any game, advertising scheme, plan, or other  
11 promotion that, with or without payment of any consideration, a person may  
12 enter to win or become eligible to receive any prize.

13                  D. Whoever commits the crime of gambling by electronic sweepstakes  
14 device shall be fined not more than twenty thousand dollars, imprisoned with  
15 or without hard labor for not more than five years, or both.

16                  F. The conducting or assisting in the conducting of gaming activities or  
17 operations upon a river boat, at the official gaming establishment, by operating  
18 an electronic video draw poker device, by a charitable gaming licensee, or at a  
19 pari-mutuel wagering facility, conducting slot machine gaming at an eligible  
20 horse-racing facility, or the operation of a state lottery which is licensed for  
21 operation and regulated under the provisions of Chapters 4 and 11 of Title 4,  
22 Chapters 4, 5, 7, and 8 of Title 27, or Subtitle XI of Title 47 of the Louisiana  
23 Revised Statutes of 1950, shall not be considered gambling by electronic  
24 sweepstakes device for the purposes of this Section, provided that the wagering  
25 is done on the premises of the licensed establishment.

26                  G. The conducting or assisting in the conducting of pari-mutuel  
27 wagering at licensed racing facilities, under the provisions of Chapter 4 of Title  
28 4 of the Louisiana Revised Statutes of 1950, shall not be considered gambling  
29 by electronic sweepstakes device for the purposes of this Section, provided that

1           the wagering is done on the premises of the licensed establishment.

2           H. Nothing in this Section shall prohibit, limit, or otherwise restrict the  
3           purchase, sale, exchange, or other transaction related to stocks, bonds, futures,  
4           options, commodities, or other similar instruments or transactions occurring on  
5           a stock or commodities exchange, brokerage house, or similar entity.

6           I. Nothing in this Section shall limit or alter in any way the application  
7           of the requirements for sweepstakes, contests, prizes, and similar activities  
8           under the provisions of Chapter 19-B of Title 51 of the Louisiana Revised  
9           Statutes of 1950.

10          J. The providing of Internet or other on-line access, transmission,  
11          routing, storage, or other communication-related services, or website design,  
12          development, storage, maintenance, billing, advertising, hypertext linking,  
13          transaction processing, or other site-related services, by telephone companies,  
14          Internet service providers, software developers, licensors, or other such parties  
15          providing such services to customers in the normal course of business, shall not  
16          be considered gambling by electronic sweepstakes device even though the  
17          activities of such customers using such services to conduct a prohibited game,  
18          contest, lottery, or contrivance may constitute gambling by computer for the  
19          purposes of this Section. The provisions of this Subsection shall not exempt  
20          from criminal prosecution any software developer, licensor, or other such party  
21          if its primary purpose in providing such service is to support the conduct of  
22          gambling as a business.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by James Benton.

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#### DIGEST

Morrell (SB 311)

Present law provides for the crimes of gambling and gambling by computer.

Proposed law retains present law.

Proposed law defines gambling by electronic sweepstakes device as the intentional conducting of, or directly assisting in the conducting of, as a business any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize

a profit, through the operation of an electronic gaming machine or device that does or purports to do either of the following:

- (1) Conduct a sweepstakes through the use of a simulated gambling device, including the entry process or the revealing of a prize.
- (2) Promote a sweepstakes that is conducted through the use of a simulated gambling device, including the entry process or the revealing of a prize.

Proposed law provides penalties of a fine of more than \$20,000, imprisonment with or without hard labor for not more than five years, or both.

Proposed law creates exception for legalized forms of gaming which are authorized by present law if the activity is conducted on the licensed premises.

Proposed law creates exceptions for stock market trading done by computer.

Proposed law creates an exception for providing Internet or cable services.

Effective August 1, 2014.

(Adds R.S. 14:90.7)