

CHAPTER 381

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 18-1234

BY REPRESENTATIVE(S) Becker K. and Lundeen, Buckner, Carver, Coleman, Gray, Hansen, Jackson, Kraft-Tharp, Landgraf, McKean, Roberts, Rosenthal, Singer, Valdez, Van Winkle, Williams D., Arndt, Young, Kennedy;
also SENATOR(S) Gardner, Guzman, Aguilar, Cooke, Fenberg, Kagan, Kerr, Merrifield, Priola, Todd, Lambert, Martinez Humenik, Smallwood.

AN ACT**CONCERNING CLARIFICATION OF THE LAWS GOVERNING SIMULATED GAMBLING ACTIVITY.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 12-47.1-302, **amend** (1)(n) as follows:

12-47.1-302. Commission - powers and duties. (1) In addition to any other powers and duties set forth in this part 3, and notwithstanding the designation of the Colorado limited gaming control commission under section 12-47.1-201 as a **type 2** transfer, the commission shall nonetheless have the following powers and duties:

(n) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(n)(II) OF THIS SECTION, to inspect and examine without notice all premises wherein limited gaming is conducted or devices or equipment used in limited gaming are located, manufactured, sold, or distributed, and to summarily seize, remove, and impound, without notice or hearing from such premises any equipment, devices, supplies, books, or records for the purpose of examination or inspection.

(II) SUBSECTION (1)(n)(I) OF THIS SECTION DOES NOT APPLY TO AN OWNER, OPERATOR, EMPLOYEE, OR CUSTOMER OF A SIMULATED GAMBLING DEVICE, OR OF A BUSINESS OFFERING SIMULATED GAMBLING DEVICES, WHO:

(A) CEASED PARTICIPATING IN SUCH ACTIVITY ON OR BEFORE JULY 1, 2018; AND

(B) PROVIDES CLEAR DOCUMENTATION TO THE DISTRICT ATTORNEY THAT A LAWFUL CONTRACT HAS BEEN ENTERED INTO FOR THE SALE OR TRANSFER OF ALL

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SIMULATED GAMBLING DEVICES CONNECTED WITH THE ACTIVITY TO A PERSON BY WHOM, OR INTO A JURISDICTION WHERE, THE ACTIVITY IS LAWFUL; AND CONSUMMATES THE CONTRACT BY ACTUALLY SELLING OR TRANSFERRING THE SIMULATED GAMBLING DEVICES WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE CONTRACT WAS ENTERED INTO OR AFTER ANY SIMULATED GAMBLING DEVICES THAT WERE SEIZED, CONFISCATED, OR FORFEITED BY LAW ENFORCEMENT AUTHORITIES HAVE BEEN RETURNED, WHICHEVER OCCURS LATER.

SECTION 2. In Colorado Revised Statutes, 16-13-303, **amend** (2) as follows:

16-13-303. Class 1 public nuisance. (2) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(b) OF THIS SECTION, all fixtures and contents of any building, structure, vehicle, or real property ~~which~~ THAT is a class 1 public nuisance under subsection (1) of this section and all property ~~which~~ THAT is a class 1 public nuisance under subsection (1.5) of this section are subject to seizure, confiscation, and forfeiture as provided in this part 3. In addition, the personal property of every kind and description, including currency and other negotiable instruments and vehicles, used in conducting, maintaining, aiding, or abetting any class 1 public nuisance is subject to seizure, confiscation, and forfeiture, as provided in this part 3.

(b) SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY TO AN OWNER, OPERATOR, EMPLOYEE, OR CUSTOMER OF A SIMULATED GAMBLING DEVICE, OR OF A BUSINESS OFFERING SIMULATED GAMBLING DEVICES, WHO:

(I) CEASED PARTICIPATING IN SUCH ACTIVITY ON OR BEFORE JULY 1, 2018; AND

(II) PROVIDES CLEAR DOCUMENTATION TO THE DISTRICT ATTORNEY THAT:

(A) A LAWFUL CONTRACT HAS BEEN ENTERED INTO FOR THE SALE OR TRANSFER OF ALL SIMULATED GAMBLING DEVICES CONNECTED WITH THE ACTIVITY TO A PERSON BY WHOM, OR INTO A JURISDICTION WHERE, THE ACTIVITY IS LAWFUL; AND

(B) CONSUMMATES THE CONTRACT BY ACTUALLY SELLING OR TRANSFERRING THE SIMULATED GAMBLING DEVICES WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE CONTRACT WAS ENTERED INTO OR AFTER ANY SIMULATED GAMBLING DEVICES THAT WERE SEIZED, CONFISCATED, OR FORFEITED BY LAW ENFORCEMENT AUTHORITIES HAVE BEEN RETURNED, WHICHEVER OCCURS LATER.

SECTION 3. In Colorado Revised Statutes, 18-10.5-102, **amend** the introductory portion, (5), and (6); and **add** (3.5) as follows:

18-10.5-102. Definitions. As used in this ~~article~~ ARTICLE 10.5, unless the context otherwise requires:

(3.5) "GAMBLING", WHETHER USED ALONE OR AS PART OF THE PHRASE "SIMULATED GAMBLING" OR "SIMULATED GAMBLING DEVICE", HAS THE MEANING SET FORTH IN SECTION 18-10-102 (2); EXCEPT THAT, FOR PURPOSES OF THIS ARTICLE 10.5, THE EXCEPTION SET FORTH IN SECTION 18-10-102 (2)(a) DOES NOT APPLY.

(5)(a) "Prize" means a gift, award, gratuity, good, service, credit, or anything else

of value, INCLUDING A THING OF VALUE FOR A "GAIN" AS DEFINED IN SECTION 18-10-102 (1), that may be transferred to ~~a person~~ AN ENTRANT, whether or not possession of the prize is actually transferred or placed on an account or other record as evidence of the intent to transfer the prize.

(b) "Prize" does not include:

(I) Free or additional play; ~~or~~

(II) Any intangible or virtual award that cannot be converted into money, goods, or services; OR

(III) A PAPER OR ELECTRONIC COUPON, WHETHER ISSUED TO A PLAYER AS A SINGLE TICKET OR TOKEN OR AS MULTIPLE TICKETS OR TOKENS, THAT IS WON IN RETURN FOR A SINGLE PLAY OF A DEVICE; HAS A VALUE THAT DOES NOT EXCEED THE EQUIVALENT OF TWENTY-FIVE DOLLARS; CANNOT BE EXCHANGED OR RETURNED FOR MONEY, MONETARY CREDITS, OR ANY FINANCIAL CONSIDERATION; AND CANNOT BE USED TO ACQUIRE OR EXCHANGED FOR ANY PRODUCT THAT IS, CONTAINS, OR CAN BE USED AS A CONSTITUENT PART OF OR ACCESSORY FOR:

(A) ALCOHOL BEVERAGES;

(B) TOBACCO, TOBACCO PRODUCTS, MARIJUANA, OR SMOKING; OR

(C) FIREARMS OR AMMUNITION.

(6) (a) "Simulated gambling device" means a mechanically or electronically operated machine, network, system, program, or device that is used by an entrant and that displays simulated gambling displays on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person conducting the game or by that person's partners, affiliates, subsidiaries, agents, or contractors; EXCEPT THAT the term DOES NOT INCLUDE BONA FIDE AMUSEMENT DEVICES, AS AUTHORIZED IN SECTION 12-47-103 (30), THAT PAY NOTHING OF VALUE, CANNOT BE ADJUSTED TO PAY ANYTHING OF VALUE, AND ARE NOT USED FOR GAMBLING. "SIMULATED GAMBLING DEVICE" includes:

~~(a)~~ (I) A video poker game or any other kind of video card game;

~~(b)~~ (II) A video bingo game;

~~(c)~~ (III) A video craps game;

~~(d)~~ (IV) A video keno game;

~~(e)~~ (V) A video lotto game;

~~(f)~~ (VI) A video roulette game;

~~(g)~~ (VII) A pot-of-gold;

~~(h)~~ (VIII) An eight-liner;

~~(i)~~ (IX) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols;

~~(j)~~ (X) An electronic gaming machine, including a personal computer of any size or configuration that performs any of the functions of an electronic gaming machine;

~~(k)~~ (XI) A slot machine, WHERE RESULTS ARE DETERMINED BY REASON OF THE SKILL OF THE PLAYER OR THE APPLICATION OF THE ELEMENT OF CHANCE, OR BOTH, AS PROVIDED BY SECTION 9 (4)(c) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION; and

~~(l)~~ (XII) A device that functions as, or simulates the play of, a slot machine, WHERE RESULTS ARE DETERMINED BY REASON OF THE SKILL OF THE PLAYER OR THE APPLICATION OF THE ELEMENT OF CHANCE, OR BOTH, AS PROVIDED BY SECTION 9 (4)(c) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

(b) "SIMULATED GAMBLING DEVICE" DOES NOT INCLUDE ANY PARI-MUTUEL TOTALISATOR EQUIPMENT THAT IS USED FOR PARI-MUTUEL WAGERING ON LIVE OR SIMULCAST RACING EVENTS AND THAT HAS BEEN APPROVED BY THE DIRECTOR OF THE DIVISION OF RACING EVENTS FOR ENTITIES AUTHORIZED AND LICENSED UNDER ARTICLE 60 OF TITLE 12.

SECTION 4. In Colorado Revised Statutes, 18-10.5-103, **amend** (1)(a); and **add** (11) as follows:

18-10.5-103. Prohibition - penalties - exemptions. (1) A person commits unlawful offering of a simulated gambling device if the person offers, facilitates, contracts for, or otherwise makes available to or for members of the public or members of an organization or club any simulated gambling device where:

(a) The PERSON RECEIVES, DIRECTLY OR INDIRECTLY, A payment OR TRANSFER of consideration ~~is required or permitted for~~ IN CONNECTION WITH AN ENTRANT'S use of the SIMULATED GAMBLING device, ~~for~~ admission to premises on which the SIMULATED GAMBLING device is located, or ~~for~~ the purchase of any product or service associated with access to or use of the SIMULATED GAMBLING device, REGARDLESS OF WHETHER CONSIDERATION IN CONNECTION WITH SUCH USE, ADMISSION, OR PURCHASE IS MONETARY OR NONMONETARY AND REGARDLESS OF WHETHER IT IS PAID OR TRANSFERRED BEFORE THE SIMULATED GAMBLING DEVICE IS USED BY AN ENTRANT; and

(11) THIS SECTION DOES NOT APPLY TO AN OWNER, OPERATOR, EMPLOYEE, OR CUSTOMER OF A SIMULATED GAMBLING DEVICE, OR OF A BUSINESS OFFERING SIMULATED GAMBLING DEVICES, WHO:

(a) CEASED PARTICIPATING IN SUCH ACTIVITY ON OR BEFORE JULY 1, 2018; AND

(b) PROVIDES CLEAR DOCUMENTATION TO THE DISTRICT ATTORNEY THAT:

(I) A LAWFUL CONTRACT HAS BEEN ENTERED INTO FOR THE SALE OR TRANSFER OF ALL SIMULATED GAMBLING DEVICES CONNECTED WITH THE ACTIVITY TO A PERSON BY WHOM, OR INTO A JURISDICTION WHERE, THE ACTIVITY IS LAWFUL; AND

(II) CONSUMMATES THE CONTRACT BY ACTUALLY SELLING OR TRANSFERRING THE SIMULATED GAMBLING DEVICES WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE CONTRACT WAS ENTERED INTO OR AFTER ANY SIMULATED GAMBLING DEVICES THAT WERE SEIZED, CONFISCATED, OR FORFEITED BY LAW ENFORCEMENT AUTHORITIES HAVE BEEN RETURNED, WHICHEVER OCCURS LATER.

SECTION 5. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 2018