

Senate Bill 2EX2

By: Senators Thompson of the 33rd, Starr of the 44th, Walker of the 22nd, Stokes of the 43rd, Tanksley of the 32nd and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia
2 Annotated, relating to crimes involving gambling, so as to prohibit as gambling devices
3 certain video poker games and devices and certain other games and devices; to provide
4 that such gambling devices shall not be permitted under provisions legalizing certain
5 amusement devices; to provide that certificates or other evidence of winning on certain
6 other games and devices must be redeemable only where the game or device is located; to
7 define crimes and declare penalties; to provide that the prizes awarded on such other
8 games and devices may not include certain items; to amend Chapter 17 of Title 48 of the
9 Official Code of Georgia Annotated, relating to licensing and taxation of coin operated
10 amusement machines, so as to make a conforming change; to provide for related matters;
11 to provide an effective date; to repeal conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
15 relating to crimes involving gambling, is amended in Code Section 16-12-20, relating to
16 definitions, by striking paragraph (2) and inserting in its place a new paragraph to read as
17 follows:

18 "(2) 'Gambling device' means:

19 (A) any Any contrivance which for a consideration affords the player an
20 opportunity to obtain money or other thing of value, the award of which is
21 determined by chance even though accompanied by some skill, whether or not the
22 prize is automatically paid by contrivance;

23 (B) Any slot machine or any simulation or variation thereof;

24 (C) Any matchup or lineup game machine or device in which two or more
25 numerals, symbols, letters, or icons align in a winning combination on one or more

1 lines vertically, horizontally, diagonally, or otherwise without the assistance of the
 2 player and which is operated by a slot in which is deposited a coin, currency, or
 3 other thing of value or which is otherwise equipped for the receipt of consideration
 4 for the play thereof, whether or not such machine or device requires the player to use
 5 skill stops to complete the game; or

6 (D) Any video game machine or device operated by a slot in which is deposited a
 7 coin, currency, or other thing of value or which is otherwise equipped for the receipt
 8 of consideration for the play of poker, blackjack, any other card game, or keno or
 9 any simulation or variation of any of the foregoing, including, but not limited to, any
 10 game in which numerals, numbers, or any pictures, representations, or symbols are
 11 used as an equivalent or substitute for cards in the conduct of such game.

12 Any item described in subparagraph (B), (C), or (D) of this paragraph shall be a
 13 prohibited gambling device subject to and prohibited by this part, notwithstanding any
 14 inference to the contrary in any other law of this state."

15 SECTION 2.

16 Said part is further amended by striking Code Section 16-12-35, relating to applicability
 17 of said part, and inserting in its place a new Code section to read as follows:

18 "16-12-35.

19 (a) Any other laws to the contrary notwithstanding, this part shall not be applicable to
 20 the manufacturing, processing, selling, possessing, or transporting of any printed
 21 materials, equipment, devices, or other materials used or designated for use in a legally
 22 authorized lottery nor shall it be applicable to the manufacturing, processing, selling,
 23 possessing, or transporting of any gaming equipment, devices, or other materials used
 24 or designated for use only in jurisdictions in which the use of such items is legal. This
 25 part shall in no way prohibit communications between persons in this state and persons
 26 involved with such legal lotteries or gaming devices relative to such printed materials,
 27 equipment, devices, or other materials or prohibit demonstrations of same within this
 28 state.

29 (a.1) As used in this Code section, the term "some skill" means any presence of the
 30 following factors, alone or in combination with one another:

- 31 (1) A learned power of doing a thing competently;
- 32 (2) A particular craft, art, ability, strategy, or tactic;
- 33 (3) A developed or acquired aptitude or ability;
- 34 (4) A coordinated set of actions, including, but not limited to, eye-hand coordination;
- 35 (5) Dexterity, fluency, or coordination in the execution of learned physical or mental
- 36 tasks or both;

1 (6) Technical proficiency or expertise;

2 (7) Development or implementation of strategy or tactics in order to achieve a goal; or

3 (8) Knowledge of the means or methods of accomplishing a task.

4 The term some skill refers to a particular craft, coordinated effort, art, ability, strategy,
5 or tactic employed by the player to affect in some way the outcome of the game played
6 on a bona fide coin operated amusement machine as defined in paragraph (2) of Code
7 Section 48-17-1. If a player can take no action to affect the outcome of the game, the
8 bona fide coin operated amusement machine does not meet the "some skill" requirement
9 of this Code section.

10 (b) Nothing in this part shall apply to a coin operated game or device designed and
11 manufactured for bona fide amusement purposes only which may by application of
12 some skill entitle the player to earn replays of the game or device at no additional cost
13 and to discharge the accumulated free replays only by reactivating the game or device
14 for each accumulated free replay or by reactivating the game or device for a portion or
15 all of the accumulated free plays in a single play. This subsection shall not apply,
16 however, to any game or device classified by the United States government as requiring
17 a federal gaming tax stamp under applicable provisions of the Internal Revenue Code or
18 any item described as a gambling device in subparagraph (B), (C), or (D) of paragraph
19 (2) of Code Section 16-12-20.

20 (c) (1) Nothing in this part shall apply to a crane game machine or device meeting the
21 requirements of paragraph (2) of this subsection.

22 (2) A crane game machine or device acceptable for the purposes of paragraph (1) of
23 this subsection shall meet the following requirements:

24 (A) The machine or device must be designed and manufactured only for bona fide
25 amusement purposes and must involve at least some skill in its operation;

26 (B) The machine or device must reward a winning player exclusively with free
27 replays or merchandise contained within the machine itself and such merchandise
28 must be limited to noncash merchandise, prizes, toys, gift certificates, or novelties,
29 each of which has a wholesale value not exceeding \$5.00. A player may be rewarded
30 with both free replays and noncash merchandise, prizes, toys, or novelties for a
31 single play of the game or device as provided in this Code section;

32 (C) The player of the machine or device must be able to control the timing of the use
33 of the claw or grasping device to attempt to pick up or grasp a prize, toy, or novelty;

34 (D) The player of the machine or device must be made aware of the total time which
35 the machine or device allows during a game for the player to maneuver the claw or
36 grasping device into a position to attempt to pick up or grasp a prize, toy, or novelty;

1 (E) The claw or grasping device must not be of a size, design, or shape that prohibits
 2 picking up or grasping a prize, toy, or novelty contained within the machine or
 3 device; and

4 (F) The machine or device must not be classified by the United States government as
 5 requiring a federal gaming stamp under applicable provisions of the Internal
 6 Revenue Code.

7 (d) (1) Nothing in this part shall apply to a coin operated game or device designed
 8 and manufactured only for bona fide amusement purposes which involves some skill
 9 in its operation if it rewards the player exclusively with:

10 (A) Free replays;

11 (B) Merchandise limited to noncash merchandise, prizes, toys, gift certificates, or
 12 novelties, each of which has a wholesale value of not more than \$5.00 received for a
 13 single play of the game or device;

14 (C) Points, tokens, vouchers, tickets, or other evidence of winnings which may be
 15 exchanged for rewards set out in subparagraph (A) of this paragraph or
 16 subparagraph (B) of this paragraph or a combination of rewards set out in
 17 subparagraph (A) and subparagraph (B) of this paragraph; or

18 (D) Any combination of rewards set out in two or more of subparagraph (A), (B), or
 19 (C) of this paragraph.

20 This subsection shall not apply, however, to any game or device classified by the
 21 United States government as requiring a federal gaming stamp under applicable
 22 provisions of the Internal Revenue Code or any item described as a gambling device
 23 in subparagraph (B), (C), or (D) of paragraph (2) of Code Section 16-12-20.

24 (2) A player of bona fide coin operated amusement games or devices described in
 25 paragraph (1) of this subsection may accumulate winnings for the successful play of
 26 such bona fide coin operated amusement games or devices through tokens, vouchers,
 27 points, or tickets. Points may be accrued on the machine or device. A player may carry
 28 over points on one play to subsequent plays. A player may redeem accumulated
 29 tokens, vouchers, or tickets for noncash merchandise, prizes, toys, gift certificates, or
 30 novelties so long as the amount of tokens, vouchers, or tickets received does not
 31 exceed \$5.00 for a single play.

32 (e) Any person who gives to any other person money for free replays on coin operated
 33 games or devices described in subsection (b), (c), or (d) of this Code section shall be
 34 guilty of a misdemeanor.

35 (f) Any person owning or possessing an amusement game or device described in
 36 subsection (c) or (d) of this Code section or any person employed by or acting on behalf
 37 of any such person who gives to any other person money for any noncash merchandise,

1 prize, toy, gift certificate, or novelty received as a reward in playing any such
2 amusement game or device shall be guilty of a misdemeanor.

3 (g) Any person owning or possessing an amusement game or device described in
4 subsection (b), (c), or (d) of this Code section or any person employed by or acting on
5 behalf of any such person who gives to any other person money as a reward for the
6 successful play or winning of any such amusement game or device shall be guilty of a
7 misdemeanor of a high and aggravated nature.

8 (h) Any gift certificates, tokens, vouchers, tickets, or other evidence of winnings
9 awarded under subsection (c) or (d) of this Code section must be redeemable only at the
10 premises on which the game or device is located. It shall be unlawful for any person to
11 provide to any other person as a reward for play on any such game or device any gift
12 certificate, token, voucher, ticket, or other evidence of winning which is redeemable or
13 exchangeable for any thing of value at any other premises. It shall be unlawful for any
14 person at any premises other than those on which the game or device is located to give
15 any thing of value to any other person for any gift certificate, token, voucher, ticket, or
16 other evidence of winning received by such other person from play on such game or
17 device. Any person who violates this subsection shall be guilty of a misdemeanor of a
18 high and aggravated nature.

19 (i) The merchandise, prizes, toys, gift certificates, novelties, or rewards which may be
20 awarded under subsection (c) or (d) of this Code section may not include or be
21 redeemable or exchangeable for any firearms, alcohol, or tobacco or any lottery ticket
22 or other item enabling participation in any lottery. Any person who violates this
23 subsection shall be guilty of a misdemeanor of a high and aggravated nature."

24 SECTION 3.

25 Chapter 17 of Title 48 of the Official Code of Georgia Annotated, relating to licensing
26 and taxation of coin operated amusement machines, is amended in Code Section 48-17-1,
27 relating to definitions, by striking subdivision (2)(A)(xxii) and inserting in its place the
28 following:

29 ~~"(xxii) Matchup or lineup games which require the player to use skill stops to~~
30 ~~complete the game Reserved;"~~

31 SECTION 4.

32 This Act shall become effective on January 1, 2002.

33 SECTION 5.

34 All laws and parts of laws in conflict with this Act are repealed.