

House Bill 1369

By: Representatives Bruce of the 64th, Holmes of the 61st, and Thomas of the 55th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
2 relating to gambling and related offenses, so as to revise definitions relative to gambling and
3 related offenses; to revise a provision relating to bona fide coin operated amusement
4 machines; to authorize any county or any municipal corporation by referendum to approve
5 the operation of pari-mutuel betting, the operation of casinos, or the operation of pari-mutuel
6 betting and casinos within the unincorporated area of a county or within a municipal
7 corporation; to provide for procedures for initiating and conducting a referendum; to provide
8 for subsequent elections and nullification; to provide for the effect of approving the operation
9 of pari-mutuel betting or the operation of casinos; to provide for supervision of the operation
10 of pari-mutuel betting and casinos by the Georgia Lottery Corporation; to provide for rules
11 and regulations; to provide for selection of providers of pari-mutuel betting and casinos; to
12 provide for the levy and collection of certain taxes, fees, or assessments; to provide for
13 related matters; to provide for a contingent effective date; to provide for automatic repeal in
14 specified circumstances; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
18 gambling and related offenses, is amended by revising paragraph (2) of Code Section
19 16-12-20, relating to definitions relative to gambling, as follows:

20 "(2) 'Gambling device' means:

21 (A) ~~Any~~ any contrivance which for a consideration affords the player an opportunity
22 to obtain money or other thing of value, the award of which is determined by chance
23 even though accompanied by some skill, whether or not the prize is automatically paid
24 by contrivance; except as otherwise provided in Part 3 of this article.

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

1 ~~(C) Any matchup or lineup game machine or device, operated for any consideration,~~
 2 ~~in which two or more numerals, symbols, letters, or icons align in a winning~~
 3 ~~combination on one or more lines vertically, horizontally, diagonally, or otherwise,~~
 4 ~~without assistance by the player. Use of skill stops shall not be considered assistance~~
 5 ~~by the player; or~~

6 ~~(D) Any video game machine or device, operated for any consideration, for the play~~
 7 ~~of poker, blackjack, any other card game, or keno or any simulation or variation of any~~
 8 ~~of the foregoing, including, but not limited to, any game in which numerals, numbers,~~
 9 ~~or any pictures, representations, or symbols are used as an equivalent or substitute for~~
 10 ~~cards in the conduct of such game.~~

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

14 SECTION 2.

15 Said article is further amended by revising subsection (a) of Code Section 16-12-21, relating
 16 to the offense of gambling, as follows:

17 "(a) Except as otherwise provided in Part 3 of this article, ~~A~~ person commits the offense
 18 of gambling when he or she:

- 19 (1) Makes a bet upon the partial or final result of any game or contest or upon the
 20 performance of any participant in such game or contest;
- 21 (2) Makes a bet upon the result of any political nomination, appointment, or election or
 22 upon the degree of success of any nominee, appointee, or candidate; or
- 23 (3) Plays and bets for money or other thing of value at any game played with cards, dice,
 24 or balls."

25 SECTION 3.

26 Said article is further amended by revising subsection (a) of Code Section 16-12-22, relating
 27 to the offense of commercial gambling, as follows:

28 "(a) Except as otherwise provided by Part 3 of this article, ~~A~~ person commits the offense
 29 of commercial gambling when he or she intentionally does any of the following acts:

- 30 (1) Operates or participates in the earnings of a gambling place;
- 31 (2) Receives, records, or forwards a bet or offer to bet;
- 32 (3) For gain, becomes a custodian of anything of value bet or offered to be bet;
- 33 (4) Contracts to have or give himself, herself, or another the option to buy or sell or
 34 contracts to buy or sell at a future time any gain or other commodity whatsoever or any
 35 stock or security of any company, when it is at the time of making such contract intended

1 by both parties thereto that the contract to buy or sell, the option whenever exercised or
 2 the contract resulting therefrom, shall be settled not by the receipt or delivery of such
 3 property but by the payment only of differences in prices thereof;

4 (5) Sells chances upon the partial or final result of or upon the margin of victory in any
 5 game or contest or upon the performance of any participant in any game or contest or
 6 upon the result of any political nomination, appointment, or election or upon the degree
 7 of success of any nominee, appointee, or candidate;

8 (6) Sets up or promotes any lottery, sells or offers to sell, or knowingly possesses for
 9 transfer or transfers any card, stub, ticket, check, or other device designed to serve as
 10 evidence of participation in any lottery; or

11 (7) Conducts, advertises, operates, sets up, or promotes a bingo game without having a
 12 valid license to operate a bingo game as provided by law."

13 SECTION 4.

14 Said article is further amended by revising subsection (a) of Code Section 16-12-23, relating
 15 to the offense of keeping a gambling place, as follows:

16 "(a) Except as otherwise provided by Part 3 of this article, a ~~A~~ person who knowingly
 17 permits any real estate, building, room, tent, vehicle, boat, or other property whatsoever
 18 owned by him or her or under his or her control to be used as a gambling place or who
 19 rents or lets any such property with a view or expectation that it be so used commits the
 20 offense of keeping a gambling place."

21 SECTION 5.

22 Said article is further amended by revising subsection (a) of Code Section 16-12-24, relating
 23 to the possession, manufacture, or transfer of gambling devices or parts for gambling devices
 24 and the possession of antique slot machines, as follows:

25 "(a) Except as otherwise provided by Part 3 of this article, a ~~A~~ person who knowingly
 26 owns, manufactures, transfers commercially, or possesses any device which he or she
 27 knows is designed for gambling purposes or anything which he or she knows is designed
 28 as a subassembly or essential part of such device is guilty of a misdemeanor of a high and
 29 aggravated nature."

30 SECTION 6.

31 Said article is further amended by revising subsection (a) of Code Section 16-12-26, relating
 32 to the offense of advertising gambling, as follows:

33 "(a) Except as otherwise provided in Part 3 of this article, a ~~A~~ person who knowingly
 34 prints, publishes, or advertises any lottery or other scheme for commercial gambling or

1 who knowingly prints or publishes any lottery ticket, policy ticket, or other similar device
2 designed to serve as evidence of participation in a lottery commits the offense of
3 advertising commercial gambling."

4 **SECTION 7.**

5 Said article is further amended by revising subsection (a) of Code Section 16-12-28, relating
6 to the offense of communicating gambling information, as follows:

7 "(a) Except as otherwise provided in Part 3 of this article, a ~~A~~ person who knowingly
8 communicates information as to bets, betting odds, or changes in betting odds or who
9 knowingly installs or maintains equipment for the transmission or receipt of such
10 information with the intent to further gambling commits the offense of communicating
11 gambling information."

12 **SECTION 8.**

13 Said article is further amended by revising subsection (a) of Code Section 16-12-30, relating
14 to seizure and destruction of gambling devices, as follows:

15 "(a) Except as otherwise provided in subsection (b) of Code Section 16-12-24 or Part 3 of
16 this article, every gambling device is declared to be contraband and subject to seizure and
17 confiscation by any state or local authority within whose jurisdiction the same may be
18 found."

19 **SECTION 9.**

20 Said article is further amended by revising subsection (b) of Code Section 16-12-32, relating
21 to seizure and disposition of property used in or derived from a violation of the article, as
22 follows:

23 "(b) Except as otherwise provided in Part 3 of this article, ~~all~~ ~~At~~ property used in, intended
24 for use in, used to facilitate, or derived from or realized through a violation of this article
25 or which is located within any gambling place or within any vehicle or other conveyance
26 used to transport any gambling device, any subassembly or essential part thereof, card,
27 stub, ticket, check, funds, things of value, or other device designed to facilitate
28 participation in any lottery is declared to be contraband and may be seized and forfeited as
29 provided in this Code section."

1 superintendent shall issue the call for an election for the purpose of submitting the question
 2 of whether pari-mutuel betting or casinos or both pari-mutuel betting and casinos shall be
 3 permitted within the unincorporated area of the county to the electors of the unincorporated
 4 area of the county for approval or rejection. The election superintendent shall issue the call
 5 and shall conduct the election on a date and in the manner authorized under Code Section
 6 21-2-540. The election superintendent shall also cause the date and purpose of the
 7 referendum to be published in the official organ of the county once a week for four weeks
 8 immediately preceding the date of the election. The ballot for the election shall have
 9 printed thereon one or two of the following questions, as set out in the resolution or
 10 ordinance:

11 (A) ' YES Shall the County of (name of county) permit the operation of
 12 NO pari-mutuel betting within the unincorporated area of (name of
county) County?'

13 (B) ' YES Shall the County of (name of county) permit the operation of casinos
 14 NO within the unincorporated area of (name of county) County?'

15 (C) ' YES Shall the County of (name of county) permit the operation of both
 16 NO pari-mutuel betting and casinos within the unincorporated area of
 17 (name of county) County?'

18 All persons desiring to vote in favor shall vote 'Yes,' and all persons opposed shall vote
 19 'No.' If more than one-half of the votes cast on such a question are in favor of permitting
 20 the activity or activities on the ballot, then all provisions of this part regarding the operation
 21 of pari-mutuel betting or casinos, or both pari-mutuel betting and casinos, appropriate to
 22 the question or questions approved in such referendum shall apply within the
 23 unincorporated area of the county. The election superintendent shall canvass the returns,
 24 declare the result of the election, and certify the result to the Secretary of State. The
 25 expense for the election shall be borne by the county conducting the election.

26 (2) The governing authority of any municipal corporation desiring to permit the operation
 27 of pari-mutuel betting, the operation of casinos, or the operation of both pari-mutuel betting
 28 and casinos within the municipal corporation shall so indicate by the adoption of a
 29 resolution or ordinance. Upon receipt of the resolution or ordinance, the municipal election
 30 superintendent shall issue the call for an election for the purpose of submitting the question
 31 of whether pari-mutuel betting or casinos, or both pari-mutuel betting and casinos, shall be
 32 permitted within the municipal corporation to the electors of the municipal corporation for
 33 approval or rejection. The municipal election superintendent shall issue the call and shall
 34 conduct the election on a date and in the manner authorized under Code Section 21-2-540.
 35 The municipal election superintendent shall also cause the date and purpose of the

1 referendum to be published in the official organ of the county once a week for four weeks
 2 immediately preceding the date of the election. The ballot for the election shall have
 3 printed thereon one or two of the following questions, as set out in the resolution or
 4 ordinance:

5 (A) ' YES Shall the City of (name of city) permit the operation of pari-mutuel
 6 NO betting within the City of (name of city) ?'

7 (B) ' YES Shall the City of (name of city) permit the operation of casinos within
 8 NO the City of (name of city)?'

9 (C) ' YES Shall the City of (name of city) permit the operation of both
 10 NO pari-mutuel betting and casinos within the City of (name of city)?'

11 All persons desiring to vote in favor shall vote 'Yes,' and all persons opposed shall vote
 12 'No.' If more than one-half of the votes cast on such a question are in favor of permitting
 13 the activity or activities on the ballot, then all provisions of this part regarding the
 14 operation of pari-mutuel betting or casinos, or both pari-mutuel betting and casinos,
 15 appropriate to the question or questions approved in such referendum shall apply within
 16 the municipal corporation. The municipal election superintendent shall canvass the
 17 returns, declare the result of the election, and certify the result to the Secretary of State.
 18 The expense for the election shall be borne by the municipal corporation conducting the
 19 election.

20 (b)(1) In the event the governing authority of a county does not adopt a resolution
 21 directing the election superintendent to issue a call for a referendum provided for in
 22 paragraph (1) of subsection (a) of this Code section, then, upon a written petition
 23 containing the signatures of 35 percent of the registered and qualified voters of the county
 24 being filed with the election superintendent, such election superintendent, upon validation
 25 of the petition, shall be required to issue the call for an election for the purpose of
 26 submitting the question of whether pari-mutuel betting or casinos, or both pari-mutuel
 27 betting and casinos, shall be permitted within the unincorporated area of the county to the
 28 electors of the unincorporated area of the county for approval or rejection. The election
 29 superintendent shall issue the call and shall conduct the election on a date and in the
 30 manner authorized under Code Section 21-2-540. The election superintendent shall also
 31 cause the date and purpose of the referendum to be published in the official organ of the
 32 county once a week for four weeks immediately preceding the date of the election. The
 33 ballot for the election shall have printed thereon one or two of the following questions,
 34 as set out in the petition:

1 (A) ' YES Shall the County of (name of county) permit the operation of
 2 NO pari-mutuel betting within the unincorporated area of (name of
county) County?'

3 (B) ' YES Shall the County of (name of county) permit the operation of casinos
 4 NO within the unincorporated area of (name of county) County?'

5 (C) ' YES Shall the County of (name of county) permit the operation of both
 6 NO pari-mutuel betting and casinos within the unincorporated area of
 7 (name of county) County?'

8 All persons desiring to vote in favor shall vote 'Yes,' and all persons opposed shall vote
 9 'No.' If more than one-half of the votes cast on such a question are in favor of permitting
 10 the activity or activities on the ballot, then all provisions of this part regarding the
 11 operation of pari-mutuel betting or casinos, or both pari-mutuel betting and casinos,
 12 appropriate to the question or questions approved in such referendum shall apply within
 13 the unincorporated area of the county. The election superintendent shall canvass the
 14 returns, declare the result of the election, and certify the result to the Secretary of State. The
 15 expense for the election shall be borne by the county conducting the election.

16 (2) In the event the governing authority of a municipal corporation does not adopt a
 17 resolution directing the municipal election superintendent to issue a call for a referendum
 18 provided for in paragraph (2) of subsection (a) of this Code section, then, upon a written
 19 petition containing the signatures of 35 percent of the registered and qualified voters of the
 20 county being filed with the municipal election superintendent, such municipal election
 21 superintendent, upon validation of the petition, shall be required to issue the call for an
 22 election for the purpose of submitting the question of whether pari-mutuel betting or
 23 casinos, or both pari-mutuel betting and casinos, shall be permitted within the municipal
 24 corporation to the electors of the municipal corporation for approval or rejection. The
 25 municipal election superintendent shall issue the call and shall conduct the election on a
 26 date and in the manner authorized under Code Section 21-2-540. The municipal election
 27 superintendent shall also cause the date and purpose of the referendum to be published in
 28 the official organ of the county once a week for four weeks immediately preceding the date
 29 of the election. The ballot for the election shall have printed thereon one or two of the
 30 following questions, as set out in the petition:

31 (A) ' YES Shall the City of (name of city) permit the operation of pari-mutuel
 32 NO betting within the City of (name of city) ?'

33 (B) ' YES Shall the City of (name of city) permit the operation of casinos within
 34 NO the City of (name of city)?'

1 (C) '() YES Shall the City of (name of city) permit the operation of both
 2 () NO pari-mutuel betting and casinos within the City of (name of city)?'

3 All persons desiring to vote in favor shall vote 'Yes,' and all persons opposed shall vote
 4 'No.' If more than one-half of the votes cast on such a question are in favor of permitting
 5 the activity or activities on the ballot, then all provisions of this part regarding the operation
 6 of pari-mutuel betting or casinos, or both pari-mutuel betting and casinos, appropriate to
 7 the question or questions approved in such referendum shall apply within the municipal
 8 corporation. The municipal election superintendent shall canvass the returns, declare the
 9 result of the election, and certify the result to the Secretary of State. The expense for the
 10 election shall be borne by the municipal corporation conducting the election.

11 (3) A petition shall not be amended, supplemented, or returned after presentation to the
 12 election superintendent or municipal election superintendent, as appropriate. Validation
 13 shall, for the purposes of this Code section, be the procedure in which the election
 14 superintendent or municipal election superintendent determines whether each signature
 15 on the petition is the name of a registered and qualified voter. For the purposes of this
 16 Code section, the required number of signatures of registered voters of a political
 17 subdivision shall be computed based on the number of voters qualified to vote at the
 18 general election immediately preceding the presentation of the petition. Actual signers
 19 of the petition shall be registered and qualified to vote in the referendum election sought
 20 by the petition.

21 (c) Following the expiration of two years after any election is held which results in the
 22 disapproval of the activity or activities as provided in this part, another election on this
 23 question shall be held if another petition or resolution or ordinance as provided in
 24 subsection (a) or (b) of this Code section, is filed with the appropriate election
 25 superintendent.

26 (d) Nullification of a referendum approving such activity or activities held pursuant to this
 27 Code section shall be accomplished only as provided in subsection (e) of this Code section.

28 (e) In any county or municipal corporation which has at any time held an election in
 29 accordance with subsection (a) or (b) of this Code section resulting in a majority of the
 30 votes being cast in favor of pari-mutuel betting, casinos, or both pari-mutuel betting and
 31 casinos, the appropriate election superintendent, upon a petition signed by at least 35
 32 percent of the registered qualified voters of the county or the municipal corporation or a
 33 resolution or ordinance adopted by a county or municipal corporation, shall proceed to call
 34 another election for the purpose of nullifying the previous election in the same manner as
 35 prescribed by subsection (a) or (b) of this Code section. No election for nullification of
 36 a referendum shall be called or held within two years after the date of the declaration by

1 the election superintendent of the results of the previous election held for the purposes of
2 this Code section.

3 16-12-67.

4 In a county or municipal corporation that has approved the operation of pari-mutuel betting
5 in accordance with this part:

6 (1) Use of a gambling device prohibited by Part 1 of this article in connection with
7 pari-mutuel betting operated in accordance with this part is not unlawful;

8 (2) Betting on a horse race or dog race through pari-mutuel betting operated in
9 accordance with this part is not unlawful.

10 (3) Operating or participating in the earnings of pari-mutuel betting operated in
11 accordance with this part is not unlawful;

12 (4) Receiving, recording, or forwarding a bet or offer to bet in pari-mutuel betting
13 operated in accordance with this part is not unlawful;

14 (5) Becoming a custodian of anything of value bet or offered to bet for gain in
15 connection with pari-mutuel betting operated in accordance with this part is not unlawful;

16 (6) Knowingly permitting property owned by the person to be used for operation of
17 pari-mutuel betting is not unlawful;

18 (7) Knowingly renting property with a view or expectation that it be used for pari-mutuel
19 betting is not unlawful; and

20 (8) Knowingly owning, manufacturing, transferring commercially, or possessing a
21 device which the person knows is designed for pari-mutuel betting purposes or anything
22 that the person knows is designed as a subassembly or essential part of such a device is
23 not unlawful;

24 (9) Knowingly advertising pari-mutuel betting in accordance with this part is not
25 unlawful; and

26 (10) Knowingly communicating information as to bets, betting odds, or changes in
27 betting odds or knowingly installing or maintaining equipment for the transmission or
28 receipt of such information with the intent to further pari-mutuel betting in accordance
29 with this part is not unlawful; and

30 (11) A gambling device used or designed for pari-mutuel betting in accordance with this
31 part is not contraband.

32 16-12-68.

33 In a county or municipal corporation that has approved the operation of casinos in
34 accordance with this part:

1 (1) Use of a gambling device prohibited by Part 1 of this article within a casino operated
2 in accordance with this part is not unlawful;

3 (2) Betting on a game of chance or a gambling device within a casino operated in
4 accordance with this part is not unlawful;

5 (3) Operating or participating in the earnings of a casino operated in accordance with this
6 part is not unlawful;

7 (4) Knowingly permitting any property under ownership or control of the person to be
8 used as a casino is not unlawful;

9 (5) Knowingly renting any property with a view or expectation that it be used as a casino
10 is not unlawful;

11 (6) Knowingly owning, manufacturing, transferring commercially, or possessing a
12 device that the person knows is designed for gambling purposes or anything which the
13 person knows to be designed as a subassembly or essential part of such a device is not
14 unlawful if such owning, manufacturing, transferring commercially, or possession is
15 connected with the operation of a casino operated in accordance with this part;

16 (7) Advertising a casino operated in accordance with this part is not unlawful; and

17 (8) A gambling device in or in route to or from a casino operated in accordance with this
18 part is not contraband.

19 16-12-69.

20 (a) The operation of pari-mutuel betting and casinos approved in accordance with this part
21 shall be supervised by the Georgia Lottery Corporation, under the governance of the board
22 of directors created by Code Section 50-27-5. The board of directors is authorized and
23 directed to promulgate rules and regulations for the purpose of regulating the operation of
24 pari-mutuel betting and casinos to provide fair chances for players to win, to prevent and
25 reveal criminal or corrupt activity, and to maximize the recreational and economic benefits
26 of pari-mutuel betting and casinos.

27 (b) The Georgia Lottery Corporation shall be responsible for selecting providers for
28 pari-mutuel betting and casinos in each county and in each municipal corporation that
29 approves pari-mutuel betting and casinos, or both, in accordance with procedures set out
30 in Chapter 27 of Title 50 for selection of vendors for the lottery system. There shall be at
31 least two casinos in each county or municipal corporation that approves the operation of
32 casinos.

1 16-12-70.

2 There is imposed a state assessment in the amount of 10 percent of the gross proceeds of
3 each pari-mutuel betting or casino operation approved in accordance with this part from
4 the owner or operator of such pari-mutuel betting or casino operation. The Georgia Lottery
5 Corporation shall collect on a monthly basis an amount equal to 10 percent of such gross
6 proceeds and such funds shall be transmitted to the Department of Revenue for deposit in
7 the state treasury.

8 16-12-71.

9 (a) The governing authority of each county is authorized to impose an assessment of 10
10 percent of the gross proceeds of each parti-mutuel betting or casino operation approved in
11 accordance with this part and located within the unincorporated area of such county from
12 the owner or operator of such pari-mutuel betting or casino operation. Such governing
13 authority shall collect on a monthly basis an amount equal to 10 percent of such proceeds
14 and shall deposit such proceeds in the general fund of the county.

15 (b) The governing authority of each municipal corporation is authorized to impose an
16 assessment of 10 percent of the gross proceeds of each pari-mutuel betting or casino
17 operation approved in accordance with this part and located within the municipal
18 corporation from the owner or operator of such pari-mutuel betting or casino operation.
19 Such governing authority shall collect on a monthly basis an amount equal to 10 percent
20 of such proceeds and shall deposit such proceeds in the general fund of the municipal
21 corporation.

22 (c) Any revenue derived from the assessment amount collected pursuant to subsections (a)
23 and (b) of this Code section shall be paid into a separate, segregated fund and used solely
24 for the purpose of providing infrastructure and other public works and improvements."

25 **SECTION 11.**

26 This Act shall become effective on January 1, 2009, but only if on that date an amendment
27 to the Georgia Constitution becomes effective by virtue of the ratification of a resolution at
28 the November, 2008, state-wide election that authorizes the General Assembly to provide by
29 general law for pari-mutuel betting or casino operation only in counties or municipal
30 corporations in which pari-mutuel betting or casino operations have been approved by
31 referendum. If such resolution is not so ratified, this Act shall not become effective and shall
32 stand repealed in its entirety on January 1, 2009.

33 **SECTION 12.**

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