

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

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"(2) 'Gambling device' means:

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

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

17 "16-12-35.

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

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

29 (1) A learned power of doing a thing competently;

30 (2) A particular craft, art, ability, strategy, or tactic;

31 (3) A developed or acquired aptitude or ability;

32 (4) A coordinated set of actions, including, but not limited to, eye-hand coordination;

33 (5) Dexterity, fluency, or coordination in the execution of learned physical or mental
34 tasks or both;

35 (6) Technical proficiency or expertise;

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Free replays;

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

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

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

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

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

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

(f) Any person owning or possessing an amusement game or device described in subsection (c) or (d) of this Code section or any person employed by or acting on behalf of any such person who gives to any other person money for any noncash merchandise, prize, toy, gift certificate, or novelty received as a reward in playing any such amusement game or device shall be guilty of a misdemeanor.

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

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

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

SECTION 3.

Chapter 17 of Title 48 of the Official Code of Georgia Annotated, relating to licensing and taxation of coin operated amusement machines, is amended in Code Section 48-17-1, relating to definitions, by striking subparagraph (A) of paragraph (2) and inserting in its place a new subparagraph (A) to describe examples of bona fide coin operated amusement machines and to read as follows:

"(A) Every machine of any kind or character used by the public to provide amusement or entertainment whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, or similar object and the result of whose operation depends in whole or in part upon the skill of the player, whether or not it affords an award to a successful player pursuant to subsections (b) through (g) of Code Section 16-12-35, and which can be legally shipped interstate according to federal law. Examples of bona fide coin operated amusement machines include, but are expressly not limited to, the following:

- (i) Pinball machines;
- (ii) Console machines;

(iii) Video games;
(iv) Crane machines;
(v) Claw machines;
(vi) Pusher machines;
(vii) Bowling machines;
(viii) Novelty arcade games;
(ix) Foosball or table soccer machines;
(x) Miniature racetrack, football, or golf machines;
(xi) Target or shooting gallery machines;
(xii) Basketball machines;
(xiii) Shuffleboard games;
(xiv) Kiddie ride games;
(xv) Skee-ball machines;
(xvi) Air hockey machines;
(xvii) Roll down machines;
(xviii) Trivia machines
(xix) Laser games;
(xx) Simulator games;
(xxi) Virtual reality machines;
~~(xxii) Matchup or lineup games which require the player to use skill stops to complete the game;~~
~~(xxiii)~~ (xxii) Maze games;
~~(xxiv)~~ (xxiii) Racing games;
~~(xxv)~~ (xxiv) Coin operated pool tables or coin operated billiard tables as defined in paragraph (3) of Code Section 43-8-1; and
~~(xxvi)~~ (xxv) Any other similar amusement machine which can be legally operated in Georgia; and".

SECTION 4.

This Act is not intended to, and should not be construed to, affect the legality of the repair, transport, possession, or use of otherwise prohibited gambling devices on maritime vessels within the jurisdiction of the State of Georgia. To the extent that such repair, transport, possession, or use was lawful prior to the enactment of this Act, it shall not be prohibited by this Act; and to the extent that such repair, transport, possession, or use was prohibited prior to the enactment of this Act, it shall not be permitted by this Act.

SECTION 5.

1 (a) Except as limited in subsection (b) of this section, this Act shall become effective on
2 January 1, 2002.

3 (b) During the period beginning January 1, 2002, and ending June 30, 2002, it shall not be
4 unlawful to possess in this state a machine or device described in subparagraph (B), (C), or
5 (D) of paragraph (2) of Code Section 16-12-20, if:

6 (1) Such machine is not in use;

7 (2) Such machine is in transit to a storage facility or in a storage facility, which said storage
8 facility is a secured facility and no part of same is accessible by anyone other than
9 employees of said facility or employees of the owner of said machine; and

10 (3) Such machine is not located in a place which is open to the public and is not located in
11 a private club.

12 **SECTION 6.**

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