

TITLE 16 - CRIMES AND OFFENSES

CHAPTER 12 - OFFENSES AGAINST PUBLIC HEALTH AND MORALS

ARTICLE 2 - GAMBLING AND RELATED OFFENSES

PART 1 – GAMBLING

§ 16-12-20. Definitions

As used in this part, the term:

(1) "Bet" means an agreement that, dependent upon chance even though accompanied by some skill, one stands to win or lose something of value. A bet does not include:

(A) Contracts of indemnity or guaranty or life, health, property, or accident insurance; or

(B) An offer of a prize, award, or compensation to the actual contestants in any bona fide contest for the determination of skill, speed, strength, or endurance or to the owners of animals, vehicles, watercraft, or aircraft entered in such contest.

(2) "Gambling device" means:

(A) 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;

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

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

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

(3) "Gambling place" means any real estate, building, room, tent, vehicle, boat, or other property whatsoever, one of the principal uses of which is the making or settling of bets; the receiving, holding, recording, or forwarding of bets or offers to bet; or the conducting of a lottery or the playing of gambling devices.

(4) "Lottery" means any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prize, whether such

scheme or procedure is called a pool, lottery, raffle, gift, gift enterprise, sale, policy game, or by some other name. Except as otherwise provided in Code Section 16-12-35, a lottery shall also include the payment of cash or other consideration or the payment for merchandise or services and the option to participate in or play, even if others can participate or play for free, a no skill game or to participate for cash, other consideration, other evidence of winnings, or other noncash prizes by lot or in a finite pool on a computer, mechanical device, or electronic device whereby the player is able to win a cash or noncash prize, other consideration, or other evidence of winnings. A lottery shall also include the organization of chain letter or pyramid clubs as provided in Code Section 16-12-38. A lottery shall not mean a:

(A) Promotional giveaway or contest which conforms with the qualifications of a lawful promotion specified in paragraph (16) of subsection (b) of Code Section 10-1-393;

(B) Scheme whereby a business gives away prizes to persons selected by lot if such prizes are made on the following conditions:

(i) Such prizes are conducted as advertising and promotional undertakings in good faith solely for the purpose of advertising the goods, wares, and merchandise of such business;

(ii) No person to be eligible to receive such prize shall be required to:

(I) Pay any tangible consideration to the operator of such business in the form of money or other property or thing of value;

(II) Purchase any goods, wares, merchandise, or anything of value from such business; or

(III) Be present or be asked to participate in a seminar, sales presentation, or any other presentation, by whatever name denominated, in order to win such prizes; and

(iii) The prizes awarded shall be noncash prizes and cannot be awarded based upon the playing of a game on a computer, mechanical device, or electronic device at a place of business in this state;

(C) Raffle authorized under Code Section 16-12-22.1;

(D) National or regional promotion, contest, or sweepstakes conducted by any corporation or wholly owned subsidiary or valid franchise of such corporation, either directly or through another entity, provided that, at the time of such promotion, contest, or sweepstakes, such corporation:

(i) Is registered under the federal Securities Exchange Act of 1934; and

(ii) Has total assets of not less than \$100 million; or

(E) Savings promotion raffle that conforms with the requirements of Code Section 7-1-239.10.

The provisions of this part shall not be applicable to games offered by the Georgia Lottery Corporation pursuant to Chapter 27 of Title 50.

§ 16-12-22. Commercial gambling

(a) A person commits the offense of commercial gambling when he intentionally does any of the following acts:

- (1) Operates or participates in the earnings of a gambling place;
- (2) Receives, records, or forwards a bet or offer to bet;
- (3) For gain, becomes a custodian of anything of value bet or offered to be bet;
- (4) Contracts to have or give himself or another the option to buy or sell or contracts to buy or sell at a future time any gain or other commodity whatsoever or any stock or security of any company, when it is at the time of making such contract intended by both parties thereto that the contract to buy or sell, the option whenever exercised or the contract resulting therefrom, shall be settled not by the receipt or delivery of such property but by the payment only of differences in prices thereof;
- (5) Sells chances upon the partial or final result of or upon the margin of victory in any game or contest or upon the performance of any participant in any game or contest or upon the result of any political nomination, appointment, or election or upon the degree of success of any nominee, appointee, or candidate;
- (6) Sets up or promotes any lottery, sells or offers to sell, or knowingly possesses for transfer or transfers any card, stub, ticket, check, or other device designed to serve as evidence of participation in any lottery; or
- (7) Conducts, advertises, operates, sets up, or promotes a bingo game without having a valid license to operate a bingo game as provided by law.

(b) A person who commits the offense of commercial gambling shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years or by a fine not to exceed \$20,000.00, or both.

§ 16-12-35. Applicability of part; penalty for violation

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

- (1) A learned power of doing a thing competently;
- (2) A particular craft, art, ability, strategy, or tactic;
- (3) A developed or acquired aptitude or ability;
- (4) A coordinated set of actions, including, but not limited to, eye-hand coordination;
- (5) Dexterity, fluency, or coordination in the execution of learned physical or mental tasks or both;
- (6) Technical proficiency or expertise;
- (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 subsection (b) of Code Section 50-27-70. 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.

(g.1) Any location owner or location operator or person employed by a location owner or location operator who violates subsection (h) or (i) of this Code section for the second separate offense shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$25,000.00, or both, as well as loss of location license and all other state licenses.

(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. This subsection shall not apply to any ticket or product of the Georgia Lottery Corporation.

(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. Any person who violates this subsection shall be guilty of a misdemeanor of a high and aggravated nature.

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

(k) Any person, location owner, or location operator who places, provides, or displays a bona fide coin operated amusement machine and offers it to play for consideration in Georgia in an establishment for which the location owner or location operator is not licensed or in a private residence shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$25,000.00, or both.