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HOUSE BILL NO. 1010

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 12, 2010)

(Patron Prior to Substitute—Delegate Athey)

A BILL to amend and reenact § 18.2-325 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-325.1, relating to illegal gambling; definitions; purporting to be free spin devices.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-325 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-325.1 as follows:

§ 18.2-325. Definitions.

1. "Illegal gambling" means the making, placing or receipt, of any bet or wager in this the Commonwealth of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest or event, occurs or is to occur inside or outside the limits of this the Commonwealth.

a. For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing or receipt of any bet or wager of money or other thing of value shall include the purchase of a product, which purchase credits the purchaser with free points or other measurable units that may be risked by the purchaser for an opportunity to win additional points or other measurable units that are redeemable by the purchaser for money at the location where the product was purchased.

b. Nothing in this section shall be construed or interpreted to prohibit the conduct of a lawful operation of any game, contest, lottery, scheme, or promotional offering which complies with the requirements contained in § 18.2-325.1.

2. "Interstate gambling" means the conduct of an enterprise for profit which engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records and other papers, which are actually used in an illegal gambling operation or activity, and

b. Any machine, apparatus, implement, instrument, contrivance, board or other thing, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape or color, shall not be deemed gambling devices within the meaning of this subsection.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

4. "Operator" includes any person, firm or association of persons, who conducts, finances, manages, supervises, directs or owns all or part of an illegal gambling enterprise, activity or operation.

§ 18.2-325.1. Lawful games, contests, etc; methods of entry; requirements.

Pursuant to subdivision 1 b of § 18.2-325, any lawful game, contest, lottery, scheme, or promotional offering (the "contest") may be conducted provided the following requirements are met:

1. There is equal dignity of play and equal odds of winning for all participants regardless of whether there is (i) free entry with a valid product purchase or (ii) free entry through an alternative-to-purchase request;

2. There are multiple and easily attainable methods of free entry to all participants wishing to enter the contest without purchase;

3. There are written disclosures about the contest including:

a. The terms and conditions that a participant must meet to enter and possibly receive a prize or

HOUSE SUBSTITUTE

HB1010H1

- 60 *other thing of value;*
- 61 *b. Whether the making of a purchase will increase the odds of winning;*
- 62 *c. The identity of the contest sponsor;*
- 63 *d. The duration of the contest period;*
- 64 *e. Whether any winner of a prize or other thing of value must complete an approved claim form in*
- 65 *order to receive the prize or other thing of value; and*
- 66 *f. Whether proof of identity is required for a winner to redeem the prize or other thing of value.*
- 67 *The disclosures required by this subdivision shall be titled as "the official rules" of the contest, and*
- 68 *may be in the form of independent signage, or printed on the product or container, or shown in a*
- 69 *multimedia display on the product dispenser;*
- 70 *4. The official rules of the contest are posted onsite that detail:*
- 71 *a. The manner in which to request free play or entry; and*
- 72 *b. The odds of obtaining a winning configuration or game piece, which shall be expressed as a*
- 73 *numerical ratio; and*
- 74 *5. No consideration or anything of value is required in order to play or enter into the contest, except*
- 75 *for the product purchased, if any.*