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SENATE BILL NO. 1164

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact §§ 18.2-325 and 18.2-325.1 of the Code of Virginia, relating to illegal gambling; exceptions.

Patron—Reynolds

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-325 and 18.2-325.1 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-325. Definitions.

1. "Illegal gambling" means the making, placing or receipt of any bet or wager in 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 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 *or other thing of value,* which purchase credits the purchaser with free points or other measurable units that may be *(i)* 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 *or other thing of value* was purchased *or (ii) redeemed by the purchaser for money at the location where the product or other thing of value was purchased, and but for the free points or other measurable units the purchase of the product or other thing of value would be of insufficient value of itself, to justify the purchase*.

b. Nothing in this section shall be construed or interpreted to prohibit the conduct of any lawful game, contest, lottery, scheme, or promotional offering that complies with the requirements contained in § 18.2-325.1 *and whose purpose is not illegal gambling*.

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, *or electronic or video versions thereof,* 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 *(i) no part of the purpose of the contest is illegal gambling, (ii) no part of the contest involves the use of a gambling device, and (iii) all of* the following requirements are met:

1. There is available a method of free entry to all participants wishing to enter the contest without

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purchase;

2. There is equal opportunity to play and equal odds of winning for all participants regardless of whether a participant entered with a valid purchase or through a free alternative method of entry;

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 other thing of value;

b. The manner in which to request free entry into the contest;

c. The identity of the contest sponsor;

d. The end date of the contest period;

e. A statement that the making of a purchase will not increase the odds of winning;

f. The odds of obtaining a winning configuration or game piece, which shall be expressed as a numerical ratio, if applicable, or as dependent on a number of entries, if applicable;

g. A statement of whether any winner of a prize or other thing of value must complete an approved claim form in order to receive the prize or other thing of value; and

h. A statement of whether proof of identity is required for a winner to redeem the prize or other thing of value;

~~4.~~ The disclosures required by this ~~section~~ *subdivision* shall be included in "the official rules" of the contest, and may be in the form of independent signage; printed on the product or container; shown in a multimedia display on the product dispenser; or otherwise available by mail, on the Internet, or by toll-free telephone call;

~~5. Any advertising~~ *4. In the case of a device with a multimedia display, the official rules are available for display without cost; and*

5. Advertising copy ~~shall include the following~~*, if any, includes*:

a. The name of the operator and the contest;

b. A statement that no purchase is required to enter or play the contest;

c. The start and end dates for entering the contest, which shall be consistent with the official rules;

d. A statement of eligibility to participate in the contest; and

e. A disclosure of where the contest is void.

~~6. In the case of a device with a multimedia display, the official rules shall be available for display without cost; and~~

~~7. No consideration or anything of value is required in order to play or enter into the contest, except for the product purchased, if any.~~

2. That the provisions of this act are declaratory of existing law.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and is $0 for periods of commitment to the custody of the Department of Juvenile Justice.