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SENATE BILL NO. 1195

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on February 17, 2011)

(Patron Prior to Substitute—Senator Obenshain)

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

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-325 of the Code of Virginia is 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, *Internet access, or other thing*, 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 was purchased~~ *or (ii) redeemed by the purchaser for money, and but for the free points or other measurable units, with regard to clauses (i) and (ii), the purchase of the product, Internet access, or other thing (a) would be of insufficient value in and of itself to justify the purchase or (b) is merely incidental to the chance to win money*.

~~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.~~

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.

2. That § 18.2-325.1 of the Code of Virginia is repealed.

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.