

Illegal Gambling Devices

The Act clarifies that Internet gambling cafes, also known as Internet sweepstakes cafes, are illegal gambling activity. Café proprietors typically advertise for sale internet time or long-distance telephone minutes. In addition to the internet time or telephone minutes, the purchaser will receive entries in an internet sweepstakes and can participate in the sweepstakes games on the café’s computers set up for that purpose. Based on a random allocation of winning and losing entries, the customer may or may not win cash prizes through the games.

Submitted as:

Kentucky

[SB 28](#)

Status: Signed into law on March 23, 2015.

Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Definitions.*]
- 2 (1) “Advancing gambling activity” -- A person “advances gambling activity” when, acting other
- 3 than as a player, he engages in conduct that materially aids any form of gambling activity.
- 4 The conduct shall include, but is not limited to, conduct directed toward the establishment of
- 5 the particular game, contest, scheme, device, or activity involved; toward the acquisition or
- 6 maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the
- 7 solicitation or inducement of persons to participate therein; toward the actual conduct of the
- 8 playing phases thereof; toward the arrangement of any of its financial or recording phases or
- 9 toward any other phase of its operation. A person who gambles at a social game of chance on
- 10 equal terms with other participants does not otherwise advance gambling activity by
- 11 performing acts, without remuneration or fee, directed toward the arrangement or facilitation
- 12 of the game as inviting persons to play, permitting the use of premises therefor and supplying
- 13 equipment used therein.
- 14 (2) “Bookmaking” means advancing gambling activity by unlawfully accepting bets upon the
- 15 outcome of future contingent events from members of the public as a business.
- 16 (3)
- 17 (a) “Gambling” means staking or risking something of value upon the outcome of a contest,
- 18 game, gaming scheme, or gaming device which is based upon an element of chance, in
- 19 accord with an agreement or understanding that someone will receive something of value
- 20 in the event of a certain outcome. A contest or game in which eligibility to participate is
- 21 determined by chance and the ultimate winner is determined by skill shall not be
- 22 considered to be gambling.
- 23 (b) Gambling shall not mean charitable gaming which is licensed and regulated under the
- 24 provisions of [Insert citation – charitable gaming.]

1 (4) "Gambling device" means:

- 2 (a) Any so-called slot machine or any other machine or mechanical device an essential part
3 of which is a drum or reel with insignia thereon, and which when operated may deliver,
4 as a result of the application of an element of chance, any money or property, or by the
5 operation of which a person may become entitled to receive, as the result of the
6 application of an element of chance, any money or property;
- 7 (b) Any mechanical or electronic device permanently located in a business establishment,
8 including a private club, that is offered or made available to a person to play or
9 participate in a simulated gambling program in return for direct or indirect consideration,
10 including but not limited to consideration paid for Internet access or computer time, or a
11 sweepstakes entry, which when operated may deliver as a result of the application of an
12 element of chance, any money or property, or by the operation of which a person may
13 become entitled to receive, as the result of the application of an element of chance, any
14 money or property; or
- 15 (c) Any other machine or any mechanical or other device, including but not limited to
16 roulette wheels, gambling tables and similar devices, designed and manufactured
17 primarily for use in connection with gambling and which when operated may deliver, as
18 the result of the application of an element of chance, any money or property, or by the
19 operation of which a person may become entitled to receive, as the result of the
20 application of an element of chance, any money or property;
- 21 (d) But, the following shall not be considered gambling devices within this definition:
- 22 1. Devices dispensing or selling combination or French pools on licensed, regular
23 racetracks during races on said tracks.
 - 24 2. Devices dispensing or selling combination or French Pools on historical races at
25 licensed, regular racetracks as lawfully authorized by the [Kentucky Horse Racing
26 Commission.]
 - 27 3. Electro-mechanical pinball machines specially designed, constructed, set up, and kept
28 to be played for amusement only. Any pinball machine shall be made to receive and
29 react only to the deposit of coins during the course of a game. The ultimate and only
30 award given directly or indirectly to any player for the attainment of a winning score
31 or combination on any pinball machine shall be the right to play one (1) or more
32 additional games immediately on the same device at no further cost. The maximum
33 number of free games that can be won, registered, or accumulated at one (1) time in
34 operation of any pinball machine shall not exceed thirty (30) free games. Any pinball
35 machine shall be made to discharge accumulated free games only by reactivating the
36 playing mechanism once for each game released. Any pinball machine shall be made
37 and kept with no meter or system to preserve a record of free games played, awarded,
38 or discharged. Nonetheless, a pinball machine shall be a gambling device if a person
39 gives or promises to give money, tokens, merchandise, premiums, or property of any
40 kind for scores, combinations, or free games obtained in playing the pinball machine
41 in which the person has an interest as owner, operator, keeper, or otherwise.
 - 42 4. Devices used in the conduct of charitable gaming.

- 1 (5) "Lottery and gift enterprise" means:
2 (a) A gambling scheme in which:
3 1. The players pay or agree to pay something of value for chances, represented and
4 differentiated by numbers or by combinations of numbers or by some other media,
5 one (1) or more of which are to be designated the winning ones; and
6 2. The ultimate winner is to be determined by a drawing or by some other method based
7 upon the element of chance; and
8 3. The holders of the winning chances are to receive something of value.
9 (b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in
10 paragraph (a) of this subsection is to be considered a lottery under this chapter.
- 11 (6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or
12 plays are not determined upon the basis of a drawing or other act on the part of persons
13 conducting or connected with the scheme, but upon the basis of the outcome or outcomes of
14 a future contingent event or events otherwise unrelated to the particular scheme.
- 15 (7) "Player" means a person who engages in any form of gambling solely as a contestant or
16 bettor, without receiving or becoming entitled to receive any profit therefrom other than
17 personal gambling winnings, and without otherwise rendering any material assistance to the
18 establishment, conduct, or operation of the particular gambling activity. A person who
19 engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The
20 status of a "player" shall be a defense to any prosecution under this chapter.
- 21 (8) "Profiting from gambling activity" -- A person "profits from gambling activity" when, other
22 than as a player, he accepts or receives or agrees to accept or receive money or other property
23 pursuant to an agreement or understanding with any person whereby he participates or is to
24 participate in the proceeds of gambling activity.
- 25 (9) "Simulated gambling program" means any method intended to be used by a person playing,
26 participating, or interacting with an electronic device that may, through the application of an
27 element of chance, either deliver money or property or an entitlement to receive money or
28 property.
- 29 (10) "Something of value" means any money or property, any token, object, or article
30 exchangeable for money or property, or any form of credit or promise directly or indirectly
31 contemplating transfer of money or property or of any interest therein, or involving extension
32 of a service, entertainment, or a privilege of playing at a game or scheme without charge.
- 33 (11) "Charitable gaming" means games of chance conducted by charitable organizations
34 licensed and regulated under the provisions of [Insert citation – charitable gaming].