

By: Flynn

H.B. No. 330

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the criminal offenses applicable to gambling and
3 gambling devices.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 47.01, Penal Code, is amended by
6 amending Subdivisions (4) and (9) and adding Subdivisions (10) and
7 (11) to read as follows:

8 (4) "Gambling device" means any electronic,
9 electromechanical, or mechanical contrivance [~~not excluded under~~
10 ~~Paragraph (B)~~] that for [~~a~~] consideration affords the player an
11 opportunity to obtain any thing [~~anything~~] of value, the award of
12 which is determined solely or partially by chance, even though
13 accompanied by some skill, whether or not the prize is
14 automatically paid by the contrivance. The term[+]

15 [~~(A)~~] includes, but is not limited to, gambling
16 device versions of bingo, keno, blackjack, lottery, roulette, video
17 poker, or similar electronic, electromechanical, or mechanical
18 games, or facsimiles of those games [~~thereof~~], that operate by
19 chance or partially so, that as a result of the play or operation of
20 the game award credits or free games, and that record the number of
21 free games or credits so awarded and the cancellation or removal of
22 the free games or credits[~~, and~~

23 [~~(B) does not include any electronic,~~
24 ~~electromechanical, or mechanical contrivance designed, made, and~~

1 ~~adapted solely for bona fide amusement purposes if the contrivance~~
2 ~~rewards the player exclusively with noncash merchandise prizes,~~
3 ~~toys, or novelties, or a representation of value redeemable for~~
4 ~~those items, that have a wholesale value available from a single~~
5 ~~play of the game or device of not more than 10 times the amount~~
6 ~~charged to play the game or device once or \$5, whichever is less].~~

7 (9) "Thing of value" means any property, money, right,
8 privilege, or other benefit, including a representation of value
9 redeemable for any property, money, right, privilege, or other
10 benefit [~~but does not include an unrecorded and immediate right of~~
11 ~~replay not exchangeable for value].~~

12 (10) "Device" includes all or part of a mechanical,
13 electronic, or electromechanical contrivance, machine, or
14 apparatus.

15 (11) "Bona fide amusement device" means a device on
16 which an amusement game or other activity can be played or conducted
17 for consideration, for which skill is the predominating requirement
18 for a player of the device to win or be awarded a thing of value.
19 The term does not include electronic, electromechanical, or
20 mechanical versions of bingo, keno, blackjack, lottery, roulette,
21 video poker, or similar games, or facsimiles of those games, that
22 operate wholly or partially by chance.

23 SECTION 2. Chapter 47, Penal Code, is amended by adding
24 Section 47.091 to read as follows:

25 Sec. 47.091. DEFENSES FOR BONA FIDE AMUSEMENT DEVICES. (a)
26 It is an affirmative defense to prosecution under Section 47.02
27 that the conduct consists entirely of the use of a bona fide

1 amusement device and the user may not win or be awarded a thing of
2 value for playing or using the device other than:

3 (1) noncash merchandise available only on the premises
4 where the device is located; or

5 (2) a ticket, coupon, or other representation of value
6 redeemable only on the premises where the device is located for
7 noncash merchandise.

8 (b) For purposes of Subsection (a):

9 (1) the noncash merchandise or representation of value
10 redeemable for noncash merchandise that may be won or awarded for a
11 single play of a game or activity on the device may not have a
12 wholesale value of more than 10 times the amount charged for a
13 single play or \$5, whichever is less; and

14 (2) an item of noncash merchandise that may be won or
15 awarded for playing or using the device or for which a person may
16 redeem one or more tickets, coupons, or other representations of
17 value won or awarded for playing or using the device may not have a
18 wholesale value of more than \$50.

19 (c) It is an affirmative defense to prosecution under
20 Section 47.03, 47.04, or 47.06 that the conduct consists of or is a
21 necessary incident to offering, using, or maintaining one or more
22 bona fide amusement devices used exclusively for conduct for which
23 Subsection (a) provides an affirmative defense to a person using
24 the device, including the manufacturing, transporting, storing, or
25 repairing of such a device.

26 SECTION 3. Section 47.02(e), Penal Code, is repealed.

27 SECTION 4. (a) The change in law made by this Act applies

1 only to an offense committed on or after the effective date of this
2 Act. For purposes of this section, an offense is committed before
3 the effective date of this Act if any element of the offense occurs
4 before that date.

5 (b) An offense committed before the effective date of this
6 Act is covered by the law in effect when the offense was committed,
7 and the former law is continued in effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2007.