

By: Middleton

H.B. No. 1775

A BILL TO BE ENTITLED

AN ACT

relating to the elements of certain criminal offenses applicable to gambling devices, including eight-liners, and defenses to prosecution for those criminal offenses.

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

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

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

[~~(A)~~] includes, but is not limited to:

(A) an eight-liner; and

(B) a [~~7~~] gambling device version [~~versions~~] of bingo, keno, blackjack, lottery, roulette, video poker, or similar electronic, electromechanical, or mechanical games, or a facsimile of any of those or similar games [~~facsimiles thereof~~], that:

(i) operates solely or partially [~~operate~~] by chance;

(ii) [~~or partially so, that~~] as a result of

1 the play or use [~~operation~~] of the game, awards [~~award~~] credits or
2 free games; [~~7~~] and

3 (iii) records [~~that record~~] the number of
4 free games or credits [~~so~~] awarded and the cancellation or removal
5 of the free games or credits [~~7~~ and

6 [~~(B) does not include any electronic,~~
7 ~~electromechanical, or mechanical contrivance designed, made, and~~
8 ~~adapted solely for bona fide amusement purposes if the contrivance~~
9 ~~rewards the player exclusively with noncash merchandise prizes,~~
10 ~~toys, or novelties, or a representation of value redeemable for~~
11 ~~those items, that have a wholesale value available from a single~~
12 ~~play of the game or device of not more than 10 times the amount~~
13 ~~charged to play the game or device once or \$5, whichever is less].~~

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

19 (10) "Device" includes all or part of an electronic,
20 electromechanical, or mechanical contrivance, machine, or
21 apparatus.

22 (11) "Eight-liner" means an electronic device capable
23 of simulating the play of a traditional mechanical slot machine, or
24 one-armed bandit, regardless of the number of lines of play, that
25 for consideration affords a player of the device an opportunity to
26 win a prize based solely or partially on chance.

27 SECTION 2. Chapter 47, Penal Code, is amended by adding

1 Section 47.091 to read as follows:

2 Sec. 47.091. DEFENSES FOR CERTAIN AMUSEMENT DEVICES. (a)

3 It is a defense to prosecution under Section 47.02 that the conduct
4 consists entirely of use of a gambling device in which:

5 (1) skill is the predominate requirement for the user
6 to win or be awarded a thing of value; and

7 (2) the user may not win or be awarded a thing of value
8 for playing or using the device other than:

9 (A) noncash merchandise available only on the
10 premises where the device is located; or

11 (B) a ticket, coupon, or other representation of
12 value redeemable only on the premises where the device is located
13 for noncash merchandise.

14 (b) For purposes of Subsection (a)(2):

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

20 (2) an item of noncash merchandise that may be won or
21 awarded for playing or using the device or for which a person may
22 redeem one or more tickets, coupons, or other representations of
23 value won or awarded for playing or using the device may not have a
24 wholesale value of more than \$50.

25 (c) It is a defense to prosecution under Section 47.02 that
26 the conduct consists entirely of use of a gambling device in which
27 the user of a device may win or be awarded only the opportunity to

1 continue playing the game or conducting an activity on the device
2 and the opportunity is not exchangeable for another thing of value.

3 (d) It is a defense to prosecution under Section 47.03,
4 47.04, or 47.06 that the conduct consists of or is a necessary
5 incident to offering, using, or maintaining one or more gambling
6 devices used exclusively for conduct for which Subsection (a) or
7 (c) provides a defense to a person using the device including
8 manufacturing, transporting, storing, or repairing such a device.

9 (e) In this section, "noncash merchandise" does not
10 include:

11 (1) a check, money order, or cashier's check;

12 (2) a traveler's check; or

13 (3) any other item of cash equivalence.

14 SECTION 3. The following provisions are repealed:

15 (1) Subchapter E, Chapter 234, Local Government Code;

16 and

17 (2) Section 47.02(e), Penal Code.

18 SECTION 4. (a) The change in law made by this Act applies
19 only to an offense committed on or after the effective date of this
20 Act. For purposes of this section, an offense is committed before
21 the effective date of this Act if any element of the offense occurs
22 before that date.

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

26 SECTION 5. This Act takes effect September 1, 2019.