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HOUSE BILL NO. 77

Offered January 12, 2022

Prefiled January 4, 2022

A *BILL to amend and reenact §§ 18.2-325 and 18.2-334 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-333.1, relating to illegal gambling; exceptions; internet poker; private residence.*

Patron—Davis

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-325 and 18.2-334 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-333.1 as follows:

§ 18.2-325. Definitions.

For the purpose of this article, unless the context requires a different meaning:

"Gambling device" includes:

1. 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;

2. 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; and

3. Skill games. 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.

1. "Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other consideration or 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.

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 consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3 b 2 of the definition of gambling device, regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

"Illegal gambling" also means the playing or offering for play of any skill game.

2. "Internet poker" means the conduct of the traditional poker game, and any derivative of the game of poker, wherein two or more players play against each other and wager on the value of their hands, through the use of the Internet.

"Interstate gambling" means the conduct of an enterprise for profit that 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;

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

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59 physical act by the player or operator, in such a manner that, depending upon elements of chance, it
60 may eject something of value or determine the prize or other thing of value to which the player is
61 entitled; provided, however, that the return to the user of nothing more than additional chances or the
62 right to use such machine is not deemed something of value within the meaning of this subsection; and
63 provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent
64 value that may differ from each other in composition, size, shape, or color, shall not be deemed
65 gambling devices within the meaning of this subsection; and

66 e. Skill games. Such devices are no less gambling devices if they indicate beforehand the definite
67 result of one or more operations but not all the operations. Nor are they any less a gambling device
68 because, apart from their use or adaptability as such, they may also sell or deliver something of value
69 on a basis other than chance.

70 4. "Operator" includes any person, firm, or association of persons, who conducts, finances, manages,
71 supervises, directs, or owns all or part of an illegal gambling enterprise, activity, or operation.

72 5. "Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person.

73 6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or
74 other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate,
75 activate, or play a game, the outcome of which is determined by any element of skill of the player and
76 that may deliver or entitle the person playing or operating the device to receive cash; cash equivalents,
77 gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; merchandise;
78 or anything of value whether the payoff is made automatically from the device or manually.

79 7. "Unregulated location" means any location that is not regulated or operated by the Virginia Lottery
80 or Virginia Lottery Board, the Department of Agriculture and Consumer Services or the Charitable
81 Gaming Board, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

82 **§ 18.2-333.1. Exception to article; internet poker; private residences.**

83 *Nothing in this article shall be construed to make it illegal to participate in a game of internet poker*
84 *conducted in a private residence, provided such private residence is not commonly used for such*
85 *internet poker games and there is no operator as defined in § 18.2-325.*

86 **§ 18.2-334. Exception to article; games of chance; private residences.**

87 *Nothing in this article shall be construed to make it illegal to participate in a game of chance*
88 *conducted in a private residence, provided such private residence is not commonly used for such games*
89 *of chance and there is no operator as defined in subsection 4 of § 18.2-325.*