

**B-Engrossed**  
**Senate Bill 755**

Ordered by the House May 25  
Including Senate Amendments dated March 28 and House Amendments  
dated May 25

Sponsored by Senator METSGER

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits use of credit cards, checks or electronic funds transfers in collection of debts from unlawful gambling using Internet. Punishes violations by maximum \$100,000 fine or five years' imprisonment, or both. Exempts activities licensed and regulated by Oregon Racing Commission. Provides exemptions for financial institutions. Specifies that financial institutions may collect on debts arising out of unlawful gambling using Internet.

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to Internet gambling; creating new provisions; amending ORS 167.116 and 167.117; and de-  
3 claring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 5 of this 2001 Act are added to and made a part of ORS 167.117**  
6 **to 167.164.**

7 **SECTION 2. (1) A person engaged in an Internet gambling business may not knowingly**  
8 **accept, in connection with the participation of another person in unlawful gambling using the**  
9 **Internet:**

10 **(a) Credit, or the proceeds of credit, extended to or on behalf of such other person, in-**  
11 **cluding credit extended through the use of a credit card;**

12 **(b) An electronic funds transfer or funds transmitted by or through a money trans-**  
13 **mission business, or the proceeds of an electronic funds transfer or money transmission**  
14 **service, from or on behalf of the other person;**

15 **(c) Any check, draft or similar instrument that is drawn by or on behalf of the other**  
16 **person and is drawn on or payable at or through any financial institution; or**

17 **(d) The proceeds of any other form of financial transaction that involves a financial in-**  
18 **stitution as a payor or financial intermediary on behalf of or for the benefit of the other**  
19 **person.**

20 **(2) Violation of subsection (1) of this section is a Class C felony.**

21 **SECTION 3. Notwithstanding any other provision of law, a creditor, credit card issuer,**  
22 **financial institution, operator of a terminal at which an electronic funds transfer may be**  
23 **initiated, money transmission business or any national, regional or local network utilized to**  
24 **effect a credit transaction, electronic funds transfer or money transmission service that is**  
25 **not liable under section 2 of this 2001 Act:**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1       **(1) May collect on any debt arising out of activities that are illegal under section 2 of this**  
2 **2001 Act;**

3       **(2) Shall not be deemed to be participating in any activities that are illegal under section**  
4 **2 of this 2001 Act by reason of their processing transactions arising out of such activities**  
5 **or collecting debts arising out of such activities; and**

6       **(3) Shall not be liable under any provision of ORS 166.715 to 166.735 or 646.605 to 646.652**  
7 **by reason of their processing transactions arising out of activities that are illegal under**  
8 **section 2 of this 2001 Act or collecting debts arising out of such activities.**

9       **SECTION 4. As used in sections 2 and 3 of this 2001 Act:**

10       **(1) “Credit” and “credit card” have the meaning given those terms under the federal**  
11 **Consumer Credit Protection Act (P.L. 90-321, 82 Stat. 146, 15 U.S.C. 1601).**

12       **(2) “Electronic funds transfer” has the meaning given that term in ORS 293.525.**

13       **(3) “Financial institution” has the meaning given that term in ORS 706.008.**

14       **(4) “Money transmission” has the meaning given that term in ORS 717.200.**

15       **SECTION 5. Sections 2 and 3 of this 2001 Act do not apply to activities licensed and reg-**  
16 **ulated by the Oregon Racing Commission under ORS chapter 462.**

17       **SECTION 6. ORS 167.116 is amended to read:**

18       167.116. (1) The Oregon State Lottery Commission shall adopt rules to carry out the provisions  
19 of ORS 167.117 (9)(c)(E) and [(19)(b)] **(20)(b)**.

20       (2) Devices authorized by the Oregon State Lottery Commission for the purposes described in  
21 ORS 167.117 (9)(c)(E) and [(19)(b)] **(20)(b)** are exempted from the provisions of 15 U.S.C. 1172.

22       **SECTION 7. ORS 167.117 is amended to read:**

23       167.117. As used in ORS 167.117 to 167.164 and 464.270 to 464.530, unless the context requires  
24 otherwise:

25       (1) “Bingo or lotto” means a game, played with cards bearing lines of numbers, in which a player  
26 covers or uncovers a number selected from a container, and which is won by a player who is present  
27 during the game and who first covers or uncovers the selected numbers in a designated combination,  
28 sequence or pattern.

29       (2) “Bookmaker” means a person who unlawfully accepts a bet from a member of the public upon  
30 the outcome of a future contingent event and who charges or accepts a percentage, fee or vigorish  
31 on the wager.

32       (3) “Bookmaking” means promoting gambling by unlawfully accepting bets from members of the  
33 public as a business, rather than in a casual or personal fashion, upon the outcomes of future con-  
34 tingent events.

35       (4) “Casino game” means any of the traditional gambling-based games commonly known as dice,  
36 faro, monte, roulette, fan-tan, twenty-one, blackjack, Texas hold-’em, seven-and-a-half, big injun,  
37 klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer,  
38 baccarat, pai gow, beat the banker, panquinqui, red dog, acey-deucey, or any other gambling-based  
39 game similar in form or content.

40       (5)(a) “Charitable, fraternal or religious organization” means any person that is:

41       (A) Organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious,  
42 philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes; and

43       (B) Exempt from payment of federal income taxes because of its charitable, fraternal or religious  
44 purposes.

45       (b) The fact that contributions to an organization profiting from a contest of chance do not

1 qualify for a charitable deduction for tax purposes or that the organization is not otherwise exempt  
2 from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended,  
3 constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal or re-  
4 ligious organization.

5 (6) "Contest of chance" means any contest, game, gaming scheme or gaming device in which the  
6 outcome depends in a material degree upon an element of chance, notwithstanding that skill of the  
7 contestants may also be a factor therein.

8 (7) "Gambling" means that a person stakes or risks something of value upon the outcome of a  
9 contest of chance or a future contingent event not under the control or influence of the person, upon  
10 an agreement or understanding that the person or someone else will receive something of value in  
11 the event of a certain outcome. "Gambling" does not include:

12 (a) Bona fide business transactions valid under the law of contracts for the purchase or sale at  
13 a future date of securities or commodities, and agreements to compensate for loss caused by the  
14 happening of chance, including but not limited to contracts of indemnity or guaranty and life, health  
15 or accident insurance.

16 (b) Engaging in contests of chance under the following conditions:

17 (A) The contest is played for some token other than money;

18 (B) An individual contestant may not purchase more than \$100 worth of tokens for use in the  
19 contest during any 24-hour period;

20 (C) The tokens may be exchanged only for property other than money;

21 (D) Except when the tokens are exchanged for a beverage or merchandise to be consumed on  
22 the premises, the tokens are not redeemable on the premises where the contest is conducted or  
23 within 50 miles thereof; and

24 (E) Except for charitable, fraternal or religious organizations, no person who conducts the con-  
25 test as owner, agent or employee profits in any manner from operation of the contest.

26 (c) Social games.

27 (d) Bingo, lotto or raffle games or Monte Carlo events operated in compliance with ORS 167.118,  
28 by a charitable, fraternal or religious organization licensed pursuant to ORS 167.118, 464.250 to  
29 464.380 and 464.420 to 464.530 to operate such games.

30 (8) "Gambling device" means any device, machine, paraphernalia or equipment that is used or  
31 usable in the playing phases of unlawful gambling, whether it consists of gambling between persons  
32 or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other  
33 items used in the playing phases of lottery and policy schemes are not gambling devices within this  
34 definition. Amusement devices other than gray machines, that do not return to the operator or  
35 player thereof anything but free additional games or plays, shall not be considered to be gambling  
36 devices.

37 (9)(a) "Gray machine" means any electrical or electro-mechanical device, whether or not it is  
38 in working order or some act of manipulation, repair, adjustment or modification is required to  
39 render it operational, that:

40 (A) Awards credits or contains or is readily adaptable to contain, a circuit, meter or switch  
41 capable of removing or recording the removal of credits earned by a player, other than removal  
42 during the course of continuous play; or

43 (B) Plays, emulates or simulates a casino game, bingo or keno.

44 (b) A device is no less a gray machine because, apart from its use or adaptability as such, it  
45 may also sell or deliver something of value on the basis other than chance.

1 (c) "Gray machine" does not include:

2 (A) Any device commonly known as a personal computer, including any device designed and  
3 marketed solely for home entertainment, when used privately and not for a fee and not used to fa-  
4 cilitate any form of gambling;

5 (B) Any device operated under the authority of the Oregon State Lottery;

6 (C) Any device manufactured or serviced but not operated in Oregon by a manufacturer who  
7 has been approved under rules adopted by the Oregon State Lottery Commission;

8 (D) A slot machine; or

9 (E) Any device authorized by the Oregon State Lottery Commission for:

10 (i) Display and demonstration purposes only at trade shows; or

11 (ii) Training and testing purposes by the Department of State Police.

12 (10) "Handle" means the total amount of money and other things of value bet on the bingo, lotto  
13 or raffle games, the value of raffle chances sold or the total amount collected from the sale of imi-  
14 tation money during Monte Carlo events.

15 **(11) "Internet" means an interactive computer service or system or an information ser-**  
16 **vice, system or access software provider that provides or enables computer access by mul-**  
17 **tiiple users to a computer server and includes, but is not limited to, an information service,**  
18 **system or access software provider that provides access to a network system commonly**  
19 **known as the Internet, or any comparable system or service and also includes, but is not**  
20 **limited to a World Wide Web page, newsgroup, message board, mailing list or chat area on**  
21 **any interactive computer service or system or other on-line service.**

22 [(11)] **(12)** "Lottery" or "policy" means an unlawful gambling scheme in which:

23 (a) The players pay or agree to pay something of value for chances, represented and differen-  
24 tiated by numbers or by combinations of numbers or by some other medium, one or more of which  
25 chances are to be designated the winning ones; and

26 (b) The winning chances are to be determined by a drawing or by some other method; and

27 (c) The holders of the winning chances are to receive something of value.

28 [(12)] **(13)** "Monte Carlo event" means a gambling event at which wagers are placed with imi-  
29 tation money upon contests of chance in which players compete against the house. As used in this  
30 subsection, "imitation money" includes imitation currency, chips or tokens.

31 [(13)] **(14)** "Numbers scheme or enterprise" means a form of lottery in which the winning  
32 chances or plays are not determined upon the basis of a drawing or other act on the part of persons  
33 conducting or connected with the scheme, but upon the basis of the outcome of a future contingent  
34 event otherwise unrelated to the particular scheme.

35 [(14)] **(15)** "Operating expenses" means those expenses incurred in the operation of a bingo, lotto  
36 or raffle game and related concessions, including only the following:

37 (a) Salaries, employee benefits, workers' compensation coverage and state and federal employee  
38 taxes;

39 (b) Security services;

40 (c) Legal and accounting services;

41 (d) Supplies and inventory;

42 (e) Rent, repairs, utilities, water, sewer and garbage;

43 (f) Insurance;

44 (g) Equipment;

45 (h) Printing and promotions;

- 1 (i) Postage and shipping;
- 2 (j) Janitorial services and supplies; and
- 3 (k) Leasehold improvements.

4 [(15)] **(16)** "Player" means a person who engages in any form of gambling solely as a contestant  
5 or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal  
6 gambling winnings, and without otherwise rendering any material assistance to the establishment,  
7 conduct or operation of the particular gambling activity. A person who gambles at a social game  
8 of chance on equal terms with the other participants therein is a person who does not otherwise  
9 render material assistance to the establishment, conduct or operation thereof by performing, without  
10 fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as in-  
11 viting persons to play, permitting the use of premises therefor and supplying cards or other equip-  
12 ment used therein. A person who engages in bookmaking is not a player.

13 [(16)] **(17)** "Profits from unlawful gambling" means that a person, acting other than solely as a  
14 player, accepts or receives money or other property pursuant to an agreement or understanding with  
15 another person whereby the person participates or is to participate in the proceeds of unlawful  
16 gambling.

17 [(17)] **(18)** "Promotes unlawful gambling" means that a person, acting other than solely as a  
18 player, engages in conduct that materially aids any form of unlawful gambling. Conduct of this na-  
19 ture includes, but is not limited to, conduct directed toward the creation or establishment of the  
20 particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance  
21 of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement  
22 of persons to participate therein, toward the conduct of the playing phases thereof, toward the ar-  
23 rangement of any of its financial or recording phases or toward any other phase of its operation.  
24 A person promotes unlawful gambling if, having control or right of control over premises being used  
25 with the knowledge of the person for purposes of unlawful gambling, the person permits the unlawful  
26 gambling to occur or continue or makes no effort to prevent its occurrence or continuation.

27 [(18)] **(19)** "Raffle" means a lottery operated by a charitable, fraternal or religious organization  
28 wherein the players pay something of value for chances, represented by numbers or combinations  
29 thereof or by some other medium, one or more of which chances are to be designated the winning  
30 ones or determined by a drawing and the player holding the winning chance is to receive something  
31 of value.

32 [(19)(a)] **(20)(a)** "Slot machine" means a gambling device that as a result of the insertion of a  
33 coin or other object operates, either completely automatically, or with the aid of some physical act  
34 by the player, in such a manner that, depending upon elements of chance, it may eject something  
35 of value or otherwise entitle the player to something of value. A device so constructed or readily  
36 adaptable or convertible to such use is no less a slot machine because it is not in working order  
37 or because some mechanical act of manipulation or repair is required to accomplish its adaptation,  
38 conversion or workability. Nor is it any less a slot machine because apart from its use or adapt-  
39 ability as such it may also sell or deliver something of value on the basis other than chance.

40 (b) "Slot machine" does not include any device authorized by the Oregon State Lottery Com-  
41 mission for:

- 42 (A) Display and demonstration purposes only at trade shows; or
- 43 (B) Training and testing purposes by the Department of State Police.

44 [(20)] **(21)** "Social game" means:

- 45 (a) A game, other than a lottery, between players in a private home where no house player,

1 house bank or house odds exist and there is no house income from the operation of the social game;  
2 and

3 (b) If authorized pursuant to ORS 167.121, a game, other than a lottery, between players in a  
4 private business, private club or place of public accommodation where no house player, house bank  
5 or house odds exist and there is no house income from the operation of the social game.

6 [(21)] (22) "Something of value" means any money or property, any token, object or article  
7 exchangeable for money or property, or any form of credit or promise directly or indirectly con-  
8 templating transfer of money or property or of any interest therein.

9 [(22)] (23) "Trade show" means an exhibit of products and services that is:

10 (a) Not open to the public; and

11 (b) Of limited duration.

12 [(23)] (24) "Unlawful" means not specifically authorized by law.

13 **SECTION 8. Sections 2 to 5 of this 2001 Act apply to debts first occurring on or after the**  
14 **effective date of this 2001 Act and to debts occurring prior to the effective date of this 2001**  
15 **Act that have not been determined by a court to be uncollectible, unlawful or illegal.**

16 **SECTION 9. This 2001 Act being necessary for the immediate preservation of the public**  
17 **peace, health and safety, an emergency is declared to exist, and this 2001 Act takes effect**  
18 **on its passage.**

19