

Enrolled
House Bill 2009

Sponsored by Representative SIMMONS

CHAPTER

AN ACT

Relating to charitable gaming; amending ORS 167.117, 167.118, 464.310, 464.340 and 464.380.

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

SECTION 1. ORS 167.117 is amended to read:

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

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

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

(3) "Bookmaking" means promoting gambling by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.

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

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

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

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

(b) The fact that contributions to an organization profiting from a contest of chance do not qualify for a charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal or religious organization.

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

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

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

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

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

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

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

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

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

(c) Social games.

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

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

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

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

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

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

(c) "Gray machine" does not include:

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

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

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

(D) A slot machine; or

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

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

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

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

(11) "Lottery" or "policy" means an unlawful gambling scheme in which:

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

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

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

(12) "Monte Carlo event" means a gambling event at which wagers are placed with imitation money upon contests of chance in which players compete against the house. As used in this subsection, "imitation money" includes imitation currency, chips or tokens.

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

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

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

(b) Security services;

(c) Legal and accounting services;

(d) Supplies and inventory;

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

(f) Insurance;

(g) Equipment;

(h) Printing and promotions;

(i) Postage and shipping;

(j) Janitorial services and supplies; and

(k) Leasehold improvements.

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

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

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

(18) "Raffle" means a lottery operated by a charitable, fraternal or religious organization wherein the players pay something of value for chances, represented by numbers or combinations

thereof or by some other medium, one or more of which chances are to be designated the winning ones or determined by a drawing and the player holding the winning chance is to receive something of value.

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

(b) "Slot machine" does not include any device authorized by the Oregon State Lottery Commission for:

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

(20) "Social game" means:

(a) A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and

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

(21) "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein.

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

- (a) Not open to the public; and
- (b) Of limited duration.

(23) "Unlawful" means not specifically authorized by law.

SECTION 2. ORS 167.118 is amended to read:

167.118. (1) When a charitable, fraternal or religious organization is licensed by the Department of Justice to conduct bingo, lotto or raffle games or Monte Carlo events, only the organization itself or an employee thereof authorized by the department shall receive money or property or otherwise directly profit from the operation of the games, except that:

(a) The organization operating the games may present a prize of money or other property to any player not involved in the administration or management of the games; and

(b) An organization licensed to conduct Monte Carlo events may contract with a licensed supplier of Monte Carlo event equipment to operate the event, including the provision of equipment, supplies and personnel, provided that the licensed supplier is paid a fixed fee to conduct the event and the imitation money is sold to players by employees or volunteers of the licensed charitable, fraternal or religious organization.

(2) A charitable, fraternal or religious organization shall not operate bingo, lotto or raffle games or Monte Carlo events except at such locations and upon such days and for such periods of time as the department authorizes pursuant to this section and ORS 464.250 to 464.380, 464.420 and 464.450 to 464.530.

(3)(a) An organization licensed by the department to operate bingo or lotto games shall not award a prize exceeding [~~\$1,500~~] **\$2,500** in value in any one game. An organization licensed by the department to operate a Monte Carlo event may not present any prize of money, or a cash equivalent, to any player.

(b) Notwithstanding any provision of this chapter to the contrary, a bingo licensee may operate two games per year with a prize not to exceed \$10,000 per game.

(4) Each charitable, fraternal or religious organization that maintains, conducts or operates any bingo, lotto or raffle game or Monte Carlo event under license of the department must operate such games in accordance with rules adopted by the department.

(5) It is unlawful for a licensee to permit the operating expenses of the games to exceed 18 percent of the annual handle of its bingo, lotto and raffle operation.

(6) It is unlawful for a charitable, fraternal or religious organization licensed by the department to operate bingo, lotto or raffle games if:

(a) The handle of the games and events exceeds \$250,000 in a year; and

(b) The games and events do not generate for the organization's purposes, after the cost of prizes and operating expenses are deducted from the handle, an amount that equals or exceeds five percent of the handle.

SECTION 3. ORS 464.310 is amended to read:

464.310. (1) A licensee of the Department of Justice under ORS 167.117 and 167.118 and this chapter, or an applicant for a license under ORS 167.118, 464.250 to 464.380, 464.420 and 464.450 to 464.530, without approval of the department, shall not knowingly permit any person to participate in the management or operation of any bingo, lotto or raffle game or Monte Carlo event for which a license from the department is required if that person:

(a) Has been convicted of or forfeited bond upon, or has been granted diversion upon a charge involving forgery, theft, willful failure to make required payments or reports to a government agency at any level, or filing false reports to such an agency, or of any similar offense, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or a misdemeanor, involving any gambling activity or physical injury to any person, or involving moral turpitude; or

(b) Has violated, failed to comply with, or refused to comply with provisions, requirements, conditions, limitations or duties imposed by ORS 167.118, 464.250 to 464.380, 464.420 and 464.450 to 464.530 or the rules of the department.

(2) No person other than a member or employee of a licensed organization, or any other person authorized under the rules of the Department of Justice, may participate in the management or operation of a licensed bingo, lotto, raffle or Monte Carlo event operation. No person who participates in the management or operation of any such bingo, lotto, raffle, Monte Carlo event, concession or related operation may concurrently participate in the management or operation of any other operation unless such participation is approved by the department. **The department shall adopt rules authorizing concurrent participation on a temporary basis in response to emergency circumstances.**

SECTION 4. ORS 464.380 is amended to read:

464.380. (1) In adopting rules for the licensing of bingo, lotto[, raffle] or Monte Carlo event operations, the Department of Justice may impose, to the extent it finds practicable, more or fewer requirements upon such operations on the basis of the number of games, [or] the frequency of [raffles or] Monte Carlo events or the gross income of the operation.

(2) As used in subsection (1) of this section, "gross income" means the total amount of money or other thing of value bet, less a deduction therefrom of the amount returned to players as prizes.

SECTION 5. ORS 464.340 is amended to read:

464.340. [After January 1, 1988.] The Department of Justice by rule shall prohibit any licensee from allowing any person to spend more than 30 hours in any one week administering the licensee's games, or operating the licensee's games, or both.

Passed by House April 20, 2001

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Chief Clerk of House

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Speaker of House

Passed by Senate May 15, 2001

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President of Senate

Received by Governor:

.....M,....., 2001

Approved:

.....M,....., 2001

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Governor

Filed in Office of Secretary of State:

.....M,....., 2001

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Secretary of State