

By: Hall

S.B. No. 106

A BILL TO BE ENTITLED

AN ACT

relating to criminal offenses applicable to gambling devices,
including eight-liners.

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
the play or use ~~[operation]~~ of the game, awards ~~[award]~~ credits or

free games; [7] and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) It is a defense to prosecution under Section 47.02 that the conduct consists entirely of use of a gambling device in which the user of a device may win or be awarded only the opportunity to continue playing the game or conducting an activity on the device

1 and the opportunity is not exchangeable for another thing of value.

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

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

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

11 (2) a traveler's check; or

12 (3) any other item of cash equivalence.

13 SECTION 3. The following provisions are repealed:

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

15 and

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

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

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

25 SECTION 5. This Act takes effect September 1, 2017.