

Part 11 Gambling

76-10-1101 Definitions.

As used in this part:

- (1)
 - (a) "Amusement device" means a game that:
 - (i) is activated by a coin, token, or other object of consideration or value; and
 - (ii) does not provide the opportunity to:
 - (A) enter into a sweepstakes, lottery, or other gambling event; or
 - (B) receive any form of consideration or value, except an appropriate reward.
 - (b) "Amusement device" includes:
 - (i) a video game;
 - (ii) a driving simulator;
 - (iii) an electronic game;
 - (iv) a claw machine;
 - (v) a bowling game;
 - (vi) a shuffleboard game;
 - (vii) a skee-ball game;
 - (viii) a pool table;
 - (ix) a pinball machine;
 - (x) a target machine; and
 - (xi) a baseball machine.
- (2) "Amusement facility" means a facility that:
 - (a) is operated primarily for the purpose of providing amusement or entertainment to customers;
 - (b) is located on property that is open to customers for the purpose of providing customers with an opportunity to use an amusement device;
 - (c) receives a substantial amount of the facility's revenue from the operation of amusement devices; and
 - (d) does not provide an opportunity for, or a machine or device that enables, gambling or fringe gambling.
- (3)
 - (a) "Appropriate reward" means a reward that:
 - (i) an individual receives as a result of the individual's participation in or use of an amusement device; and
 - (ii) provides:
 - (A) full and adequate return for money, a token, or other consideration or value invested into the amusement device;
 - (B) an immediate and unrecorded ability to replay a game featured on an amusement device that is not exchangeable for value;
 - (C) a toy, novelty, or other non-monetary prize with a value of less than \$100 as a reward for playing; or
 - (D) tickets or credits that are redeemable for a toy, novelty, or non-monetary prize at an amusement facility, or at any franchise or chain of the amusement facility, where the amusement device is located.
 - (b) "Appropriate reward" does not include money, a gift certificate, a gift card, credit to be used in a retail store, or other form of monetary compensation or reward.

- (4) "Consumer" means the same as that term is defined in Section 76-10-1230.
- (5) "Enter or entry" means an act or process by which an individual becomes eligible to receive a prize offered for participation in any form of sweepstakes, game, or contest.
- (6)
 - (a) "Fringe gambling" means any de facto form of gambling, lottery, fringe gaming device, or video gaming device that is given, conducted, or offered for use or sale by a business in exchange for anything of value or incident to the purchase of another good or service.
 - (b) "Fringe gambling" does not include:
 - (i) a promotional activity that is clearly ancillary to the primary activity of a business; or
 - (ii) use of an amusement device or vending machine.
- (7)
 - (a) "Fringe gaming device" means a mechanically, electrically, or electronically operated machine or device that:
 - (i) is not an amusement device or a vending machine;
 - (ii) is capable of displaying or otherwise presenting information on a screen or through any other mechanism; and
 - (iii) provides the user with a card, token, credit, gift certificate, product, or opportunity to participate in a contest, game, gaming scheme, or sweepstakes with a potential return of money or other prize.
 - (b) "Fringe gaming device" includes a machine or device similar to a machine or device described in Subsection (7)(a) that seeks to avoid application or circumvent this part or Article VI, Section 27, of the Utah Constitution.
- (8)
 - (a) "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome:
 - (i) is based on an element of chance, regardless of:
 - (A) the existence of a preview or pre-reveal feature in the device, contest, or game; or
 - (B) whether the preview or pre-reveal feature described in Subsection (8)(a)(i)(A) allows users to see individual or successive outcomes; and
 - (ii) is in accord with an agreement or understanding that someone will receive anything of value in the event of a certain outcome.
 - (b) "Gambling" includes a lottery.
 - (c) "Gambling" does not include:
 - (i) a lawful business transaction; or
 - (ii) use of an amusement device.
- (9) "Gambling bet" means money, checks, credit, or any other representation of value.
- (10) "Gambling device or record" means anything specifically designed for use in gambling or fringe gambling or used primarily for gambling or fringe gambling.
- (11) "Gambling proceeds" means anything of value used in gambling or fringe gambling.
- (12) "Internet gambling" or "online gambling" means gambling, fringe gambling, or gaming by use of:
 - (a) the Internet; or
 - (b) any mobile electronic device that allows access to data and information.
- (13) "Internet service provider" means a person engaged in the business of providing Internet access service, with the intent of making a profit, to consumers in Utah.
- (14) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property, or portion of it, or for any share or any interest in property, upon any

- agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.
- (15) "Prize" means a gift, award, gratuity, good, service, credit, or anything else of value that may be or is transferred to an individual or placed on an account or other record with the intent to be transferred to an individual.
- (16) "Promotional activity that is clearly ancillary to the primary activity of a business" means a promotional activity that:
- (a) continues for a limited period of time;
 - (b) is related to a good or service ordinarily provided by a business or the marketing or advertisement of a good or service ordinarily provided by the business;
 - (c) does not require a person to purchase a good or service from the business in consideration for participation or an advantage in the promotional activity or any other contest, game, gaming scheme, sweepstakes, or promotional activity;
 - (d) promotes a good or service described in Subsection (16)(b) on terms that are commercially reasonable; and
 - (e) does not, through use of a machine or device:
 - (i) simulate a gambling environment;
 - (ii) require the purchase of something of value to participate in the promotional activity that is not regularly used, purchased, or redeemed by users of the machine or device;
 - (iii) provide a good or service described in Subsection (16)(b):
 - (A) in a manner in which the person acquiring the good or service is unable to immediately acquire, redeem, or otherwise use the good or service after the time of purchase; or
 - (B) at a value less than the full value of the good or service;
 - (iv) appear or operate in a manner similar to a machine or device that is normally found in a casino for the purpose of gambling;
 - (v) provide an entertaining display, designed to appeal to an individual's senses, that promotes actual or simulated game play that is similar in appearance or function to gambling, including:
 - (A) a video playing card game, including a video poker game;
 - (B) a video bingo game;
 - (C) a video craps game;
 - (D) a video keno game;
 - (E) a video lotto game;
 - (F) an 8-liner machine;
 - (G) a Pot O' Gold game;
 - (H) a video game involving a random or chance matching of pictures, words, numbers, or symbols; or
 - (I) a video game that reveals a prize as the game is played; or
 - (vi) otherwise create a pretextual transaction to facilitate a contest, game, gaming scheme, or sweepstakes in an attempt to circumvent the requirements of this part or Article VI, Section 27, of the Utah Constitution.
- (17) "Skill-based game" means a game, played on a machine or device, the outcome of which is based, in whole or in part, on the skill of the player, regardless of whether a degree of chance is involved.
- (18) "Sweepstakes" means a game, advertising scheme, marketing scheme, or other promotion:
- (a) that an individual may enter with or without payment of any consideration;
 - (b) that qualifies the person to win a prize; and
 - (c) the result of which is based on chance.

- (19) "Vending machine" means a device:
- (a) that dispenses merchandise in exchange for money or any other item of value;
 - (b) that provides full and adequate return of the value deposited;
 - (c) through which the return of value is not conditioned on an element of chance or skill; and
 - (d)
 - (i) does not include a promotional activity; or
 - (ii) includes a promotional activity that is clearly ancillary to the primary activity of a business.
- (20) "Video gaming device" means a device that includes all of the following:
- (a) a video display and computer mechanism for playing a game;
 - (b) the length of play of any single game is not substantially affected by the skill, knowledge, or dexterity of the player;
 - (c) a meter, tracking, or recording mechanism that records or tracks any money, tokens, games, or credits accumulated or remaining;
 - (d) a play option that permits a player to spend or risk varying amounts of money, tokens, or credits during a single game, in which the spending or risking of a greater amount of money, tokens, or credits:
 - (i) does not significantly extend the length of play time of any single game; and
 - (ii) provides for a chance of greater return of credits, games, or money; and
 - (e) an operating mechanism that, in order to function, requires inserting money, tokens, or other valuable consideration other than entering the user's name, birthdate, or contact information.

Amended by Chapter 291, 2020 General Session

76-10-1101.5 General culpability requirement applicable.

Nothing in this part preempts or makes inapplicable the provisions of Title 76, Chapter 2, Part 1, Culpability Generally.

Enacted by Chapter 291, 2020 General Session

76-10-1102 Gambling.

- (1) A person is guilty of gambling if the person:
- (a) participates in gambling or fringe gambling, including any Internet or online gambling;
 - (b) knowingly permits gambling or fringe gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or
 - (c) knowingly allows the use of any video gaming device that is:
 - (i) in any business establishment or public place; and
 - (ii) accessible for use by any person within the establishment or public place.
- (2) Gambling is a class B misdemeanor, except that any person who is convicted two or more times under this section is guilty of a class A misdemeanor.
- (3)
- (a) A person is guilty of a third degree felony who intentionally provides or offers to provide any form of Internet or online gambling to any person in this state.
 - (b) Subsection (3)(a) does not apply to an Internet service provider, a hosting company as defined in Section 76-10-1230, a provider of public telecommunications services as defined in Section 54-8b-2, or an Internet advertising service by reason of the fact that the Internet service provider, hosting company, Internet advertising service, or provider of public telecommunications services:

- (i) transmits, routes, or provides connections for material without selecting the material; or
 - (ii) stores or delivers the material at the direction of a user.
- (4) If any federal law authorizes Internet gambling in the states and that federal law provides that individual states may opt out of Internet gambling, this state shall opt out of Internet gambling in the manner provided by federal law and within the time frame provided by that law.
- (5) Regardless of whether a federal law is enacted that authorizes Internet gambling in the states, this section acts as this state's prohibition of any gambling, including Internet gambling, in this state.

Amended by Chapter 291, 2020 General Session

76-10-1103 Gambling fraud.

- (1) A person is guilty of gambling fraud if the person participates in gambling or fringe gambling and wins or acquires to himself or herself or another any gambling proceeds when the person knows the person has a lesser risk of losing or greater chance of winning than one or more of the other participants, and the risk is not known to all participants.
- (2) A person convicted of gambling fraud is punished as in the case of theft of property of like value.

Amended by Chapter 185, 2019 General Session

76-10-1104 Gambling promotion.

- (1) A person is guilty of gambling promotion if the person derives or intends to derive an economic benefit other than personal winnings from gambling or fringe gambling and:
- (a) the person induces or aids another to engage in gambling or fringe gambling; or
 - (b) the person knowingly invests in, finances, owns, controls, supervises, manages, or participates in any gambling or fringe gambling.
- (2) Gambling promotion is a class A misdemeanor, except that any person who is twice convicted under this section is guilty of a third degree felony.

Amended by Chapter 291, 2020 General Session

76-10-1104.5 Advertisement or solicitation for participation in lotteries -- Void in Utah.

- (1) For purposes of this section:
- (a) "Conspicuously printed" means printed in either larger or bolder type size than the adjacent and surrounding material so as to be clearly legible to any person viewing the print.
 - (b) "Lottery" means the same as defined in Section 76-10-1101.
- (2) It is unlawful for any person to distribute or disseminate any advertisement or other written or printed material containing an advertisement or solicitation for participation in any lottery unless the advertisement or solicitation contains or includes the words "Void in Utah" conspicuously printed.
- (3)
- (a) Any person who is convicted of violating Subsection (2) shall be fined the sum of \$2,500.
 - (b) Any person who is twice or more convicted under this section shall be fined the sum of \$10,000.

Enacted by Chapter 182, 2001 General Session

76-10-1105 Possessing a gambling device or record.

- (1) A person is guilty of possessing a gambling device or record if the person knowingly possesses the gambling device or record with intent to use the gambling device or record in gambling or fringe gambling.
- (2) Possession of a gambling device or record is a class A misdemeanor, except that any person who is convicted two or more times under this section is guilty of a third degree felony.

Amended by Chapter 291, 2020 General Session

76-10-1106 Duty of prosecuting attorney or law enforcement officer to prosecute offenses.

All prosecuting attorneys, sheriffs, constables, and peace officers who have reasonable cause to believe any person has violated any provisions of this part shall diligently prosecute those persons.

Amended by Chapter 118, 1990 General Session

76-10-1108 Seizure and disposition of gambling debts or proceeds.

Any gambling bets or gambling proceeds which are reasonably identifiable as having been used or obtained in violation of this part may be seized and are subject to forfeiture proceedings in accordance with Title 24, Forfeiture and Disposition of Property Act.

Amended by Chapter 258, 2015 General Session

76-10-1109 Confidence game -- Punishment as for theft -- Description in charge.

- (1) Any person who obtains or attempts to obtain from any other person any money or property by any means, instrument or device commonly called a confidence game shall be punished as in the case of theft of property of like value.
- (2) In every indictment, information, or complaint under this section, it shall be deemed and held a sufficient description of the offense to charge that the accused did, on, ____ (insert the date) unlawfully and knowingly obtain or attempt to obtain (as the case may be) from ____, (insert the name of the person or persons defrauded or attempted to be defrauded) his money or property (as the case may be) by means and by use of a confidence game.

Enacted by Chapter 196, 1973 General Session

76-10-1110 Fringe gaming devices.

- (1) Notwithstanding any other provision in Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals, it is unlawful for any person to derive or intend to derive an economic benefit from a fringe gaming device by:
 - (a) permitting a fringe gaming device to be located on or in any real or personal property owned, rented, or under the control of the person;
 - (b) allowing individual or public access or use of a fringe gaming device as part of any business owned or operated by the person;
 - (c) inducing or aiding a person to use a fringe gaming device;
 - (d) investing in, financing, owning, controlling, or otherwise managing a fringe gaming device; or
 - (e) possessing a fringe gaming device with the intent to use or allow another to use the fringe gaming device.
- (2) Subsection (1) applies regardless of whether the fringe gaming device:

- (a) is server-based;
 - (b) uses a simulated game terminal as a representation of a prize associated with the results of a sweepstakes entry;
 - (c) uses a simulated game to influence or determine the result of the simulated game or the value of a prize;
 - (d) selects the winner of a prize from a predetermined or finite pool of entries;
 - (e) includes a pre-reveal feature;
 - (f) predetermines a prize and reveals the prize at the time a sweepstakes entry result is revealed;
 - (g) requires deposit of any money, coin, token, or gift certificate, or the use of a credit card, debit card, prepaid card, or any other method of payment to activate the device;
 - (h) requires direct payment into the machine or device or remote activation of the device;
 - (i) requires a purchase of a related product regardless of whether the product has legitimate value;
 - (j) reveals the prize incrementally, regardless of whether a prize is awarded; or
 - (k) includes a skill-based game.
- (3) Each violation of this section is a separate offense.
- (4) A person who violates this section is guilty of:
- (a) a class A misdemeanor for the first offense; or
 - (b) a third degree felony for a subsequent offense.

Enacted by Chapter 291, 2020 General Session

76-10-1112 Local control.

- (1) Nothing in this part preempts or otherwise limits the authority of a county or municipality to enact a local ordinance related to gambling or fringe gambling.
- (2) In accordance with Title 24, Forfeiture and Disposition of Property Act, a county or municipality may seize gambling debts, gambling proceeds, or fringe gaming devices that are reasonably identifiable as being obtained or provided in violation of this part or a local ordinance.

Enacted by Chapter 291, 2020 General Session

76-10-1113 Cause of action.

- (1) An individual who suffers economic loss as a result of a fringe gaming device, video gaming device, or gambling device or record may bring a cause of action against a person who operates or receives revenue from the fringe gaming device, video gaming device, or gambling device or record to recover damages, costs, and attorney fees.
- (2) An individual who brings suit under Subsection (1) may recover twice the amount of the economic loss described in Subsection (1).

Enacted by Chapter 291, 2020 General Session