

INTERNET GAMBLING

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding the definition of gambling.

Highlighted Provisions:

This bill:

- ▶ defines Internet gambling;
- ▶ clarifies that gambling, which is prohibited in Utah, includes any form of Internet gambling;
- ▶ provides that any person who knowingly transmits, receives, or relays any form of Internet or online gambling into or within this state is guilty of a class A misdemeanor;
- ▶ provides that if any federal law authorizes Internet gambling in the states, this state shall opt out of allowing Internet gambling by the procedure provided in the federal law; and
- ▶ provides an exemption for an Internet service provider or hosting company, a provider of public telecommunications services, and an Internet advertising service that is routing or providing connections without selecting the material.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2012.

Utah Code Sections Affected:

AMENDS:

30 **76-10-1101**, as last amended by Laws of Utah 2009, Chapter 382

31 **76-10-1102**, as last amended by Laws of Utah 1998, Chapter 127

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33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **76-10-1101** is amended to read:

35 **76-10-1101. Definitions.**

36 As used in this part:

37 (1) (a) "Fringe gambling" means any gambling, lottery, or video gaming device which
38 is:

39 (i) given, conducted, or offered for use or sale by a business in exchange for anything
40 of value; or

41 (ii) given away incident to the purchase of other goods or services.

42 (b) "Fringe gambling" does not include a gambling, lottery, video gaming device, or
43 other promotional activity which is clearly occasional and ancillary to the primary activity of
44 the business.

45 (2) (a) "Gambling" means risking anything of value for a return or risking anything of
46 value upon the outcome of a contest, game, gaming scheme, or gaming device when the return
47 or outcome:

48 (i) is based upon an element of chance; and

49 (ii) is in accord with an agreement or understanding that someone will receive
50 something of value in the event of a certain outcome.

51 (b) "Gambling" includes a lottery and fringe gambling.

52 (c) "Gambling" does not include:

53 (i) a lawful business transaction; or

54 (ii) playing an amusement device that confers only an immediate and unrecorded right
55 of replay not exchangeable for value.

56 (3) "Gambling bet" means money, checks, credit, or any other representation of value.

57 (4) "Gambling device or record" means anything specifically designed for use in

58 gambling or used primarily for gambling.

59 (5) "Gambling proceeds" means anything of value used in gambling.

60 (6) "Internet gambling" or "online gambling" means gambling or gaming by use of:

61 (a) the Internet; or

62 (b) any mobile electronic device that allows access to data and information.

63 [~~(6)~~] (7) "Lottery" means any scheme for the disposal or distribution of property by
64 chance among persons who have paid or promised to pay any valuable consideration for the
65 chance of obtaining property, or portion of it, or for any share or any interest in property, upon
66 any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or
67 chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.

68 [~~(7)~~] (8) "Video gaming device" means any device that possesses all of the following
69 characteristics:

70 (a) a video display and computer mechanism for playing a game;

71 (b) the length of play of any single game is not substantially affected by the skill,
72 knowledge, or dexterity of the player;

73 (c) a meter, tracking, or recording mechanism that records or tracks any money, tokens,
74 games, or credits accumulated or remaining;

75 (d) a play option that permits a player to spend or risk varying amounts of money,
76 tokens, or credits during a single game, in which the spending or risking of a greater amount of
77 money, tokens, or credits:

78 (i) does not significantly extend the length of play time of any single game; and

79 (ii) provides for a chance of greater return of credits, games, or money; and

80 (e) an operating mechanism that requires inserting money, tokens, or other valuable
81 consideration in order to function.

82 Section 2. Section **76-10-1102** is amended to read:

83 **76-10-1102. Gambling.**

84 (1) A person is guilty of gambling if ~~he~~ the person:

85 (a) participates in gambling, including any Internet or online gambling;

86 (b) knowingly permits any gambling to be played, conducted, or dealt upon or in any
87 real or personal property owned, rented, or under the control of the actor, whether in whole or
88 in part; or

89 (c) knowingly allows the use of any video gaming device that is:

90 (i) in any business establishment or public place; and

91 (ii) accessible for use by any person within the establishment or public place.

92 (2) Gambling is a class B misdemeanor, [~~provided, however,~~] except that any person
93 who is [~~twice~~] convicted two or more times under this section [~~shall be~~] is guilty of a class A
94 misdemeanor.

95 (3) (a) A person is guilty of a class A misdemeanor who intentionally provides or
96 offers to provide any form of Internet or online gambling to any person in this state.

97 (b) Subsection (3)(a) does not apply to an Internet service provider or hosting company
98 as defined in Section 76-10-1230, a provider of public telecommunications services as defined
99 in Section 54-8b-2, or an Internet advertising service by reason of the fact that the Internet
100 service provider, hosting company, Internet advertising service, or provider of public
101 telecommunications services:

102 (i) transmits, routes, or provides connections for material without selecting the
103 material; or

104 (ii) stores or delivers the material at the direction of a user.

105 (4) If any federal law is enacted that authorizes Internet gambling in the states and that
106 federal law provides that individual states may opt out of Internet gambling, this state shall opt
107 out of Internet gambling in the manner provided by federal law and within the time frame
108 provided by that law.

109 (5) Whether or not any federal law is enacted that authorizes Internet gambling in the
110 states, this section acts as this state's prohibition of any gambling, including Internet gambling,
111 in this state.

112 Section 3. **Effective date.**

113 This bill takes effect on July 1, 2012.

