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**RAFFLE AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel McCay**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill clarifies the definition of a lottery.

**Highlighted Provisions:**

This bill:

- ▶ clarifies the definition of a lottery.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-10-1101**, as last amended by Laws of Utah 2020, Chapter 291

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

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

**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:



- 28 (A) enter into a sweepstakes, lottery, or other gambling event; or
- 29 (B) receive any form of consideration or value, except an appropriate reward.
- 30 (b) "Amusement device" includes:
- 31 (i) a video game;
- 32 (ii) a driving simulator;
- 33 (iii) an electronic game;
- 34 (iv) a claw machine;
- 35 (v) a bowling game;
- 36 (vi) a shuffleboard game;
- 37 (vii) a skee-ball game;
- 38 (viii) a pool table;
- 39 (ix) a pinball machine;
- 40 (x) a target machine; and
- 41 (xi) a baseball machine.
- 42 (2) "Amusement facility" means a facility that:
- 43 (a) is operated primarily for the purpose of providing amusement or entertainment to
- 44 customers;
- 45 (b) is located on property that is open to customers for the purpose of providing
- 46 customers with an opportunity to use an amusement device;
- 47 (c) receives a substantial amount of the facility's revenue from the operation of
- 48 amusement devices; and
- 49 (d) does not provide an opportunity for, or a machine or device that enables, gambling
- 50 or fringe gambling.
- 51 (3) (a) "Appropriate reward" means a reward that:
- 52 (i) an individual receives as a result of the individual's participation in or use of an
- 53 amusement device; and
- 54 (ii) provides:
- 55 (A) full and adequate return for money, a token, or other consideration or value
- 56 invested into the amusement device;
- 57 (B) an immediate and unrecorded ability to replay a game featured on an amusement
- 58 device that is not exchangeable for value;

59 (C) a toy, novelty, or other non-monetary prize with a value of less than \$100 as a  
60 reward for playing; or

61 (D) tickets or credits that are redeemable for a toy, novelty, or non-monetary prize at an  
62 amusement facility, or at any franchise or chain of the amusement facility, where the  
63 amusement device is located.

64 (b) "Appropriate reward" does not include money, a gift certificate, a gift card, credit to  
65 be used in a retail store, or other form of monetary compensation or reward.

66 (4) "Consumer" means the same as that term is defined in Section 76-10-1230.

67 (5) "Enter or entry" means an act or process by which an individual becomes eligible to  
68 receive a prize offered for participation in any form of sweepstakes, game, or contest.

69 (6) (a) "Fringe gambling" means any de facto form of gambling, lottery, fringe gaming  
70 device, or video gaming device that is given, conducted, or offered for use or sale by a business  
71 in exchange for anything of value or incident to the purchase of another good or service.

72 (b) "Fringe gambling" does not include:

73 (i) a promotional activity that is clearly ancillary to the primary activity of a business;

74 or

75 (ii) use of an amusement device or vending machine.

76 (7) (a) "Fringe gaming device" means a mechanically, electrically, or electronically  
77 operated machine or device that:

78 (i) is not an amusement device or a vending machine;

79 (ii) is capable of displaying or otherwise presenting information on a screen or through  
80 any other mechanism; and

81 (iii) provides the user with a card, token, credit, gift certificate, product, or opportunity  
82 to participate in a contest, game, gaming scheme, or sweepstakes with a potential return of  
83 money or other prize.

84 (b) "Fringe gaming device" includes a machine or device similar to a machine or  
85 device described in Subsection (7)(a) that seeks to avoid application or circumvent this part or  
86 Article VI, Section 27, of the Utah Constitution.

87 (8) (a) "Gambling" means risking anything of value for a return or risking anything of  
88 value upon the outcome of a contest, game, gaming scheme, or gaming device when the return  
89 or outcome:

- 90 (i) is based on an element of chance, regardless of:
- 91 (A) the existence of a preview or pre-reveal feature in the device, contest, or game; or
- 92 (B) whether the preview or pre-reveal feature described in Subsection (8)(a)(i)(A)
- 93 allows users to see individual or successive outcomes; and
- 94 (ii) is in accord with an agreement or understanding that someone will receive anything
- 95 of value in the event of a certain outcome.
- 96 (b) "Gambling" includes a lottery.
- 97 (c) "Gambling" does not include:
- 98 (i) a lawful business transaction; or
- 99 (ii) use of an amusement device.
- 100 (9) "Gambling bet" means money, checks, credit, or any other representation of value.
- 101 (10) "Gambling device or record" means anything specifically designed for use in
- 102 gambling or fringe gambling or used primarily for gambling or fringe gambling.
- 103 (11) "Gambling proceeds" means anything of value used in gambling or fringe
- 104 gambling.
- 105 (12) "Internet gambling" or "online gambling" means gambling, fringe gambling, or
- 106 gaming by use of:
- 107 (a) the Internet; or
- 108 (b) any mobile electronic device that allows access to data and information.
- 109 (13) "Internet service provider" means a person engaged in the business of providing
- 110 Internet access service, with the intent of making a profit, to consumers in Utah.
- 111 (14) (a) "Lottery" means any scheme for the disposal or distribution of property by
- 112 chance among persons who have paid or promised to pay any valuable consideration for the
- 113 chance of obtaining property, or portion of it, or for any share or any interest in property, upon
- 114 any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or
- 115 chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.
- 116 (b) "Lottery" does not include a scheme where an entity gives away a prize by the act
- 117 of drawing a name if no purchase or consideration is required to qualify for the prize.
- 118 (15) "Prize" means a gift, award, gratuity, good, service, credit, or anything else of
- 119 value that may be or is transferred to an individual or placed on an account or other record with
- 120 the intent to be transferred to an individual.

- 121 (16) "Promotional activity that is clearly ancillary to the primary activity of a business"  
122 means a promotional activity that:
- 123 (a) continues for a limited period of time;
  - 124 (b) is related to a good or service ordinarily provided by a business or the marketing or  
125 advertisement of a good or service ordinarily provided by the business;
  - 126 (c) does not require a person to purchase a good or service from the business in  
127 consideration for participation or an advantage in the promotional activity or any other contest,  
128 game, gaming scheme, sweepstakes, or promotional activity;
  - 129 (d) promotes a good or service described in Subsection (16)(b) on terms that are  
130 commercially reasonable; and
  - 131 (e) does not, through use of a machine or device:
    - 132 (i) simulate a gambling environment;
    - 133 (ii) require the purchase of something of value to participate in the promotional activity  
134 that is not regularly used, purchased, or redeemed by users of the machine or device;
    - 135 (iii) provide a good or service described in Subsection (16)(b):
      - 136 (A) in a manner in which the person acquiring the good or service is unable to  
137 immediately acquire, redeem, or otherwise use the good or service after the time of purchase;
      - 138 or
      - 139 (B) at a value less than the full value of the good or service;
      - 140 (iv) appear or operate in a manner similar to a machine or device that is normally found  
141 in a casino for the purpose of gambling;
      - 142 (v) provide an entertaining display, designed to appeal to an individual's senses, that  
143 promotes actual or simulated game play that is similar in appearance or function to gambling,  
144 including:
        - 145 (A) a video playing card game, including a video poker game;
        - 146 (B) a video bingo game;
        - 147 (C) a video craps game;
        - 148 (D) a video keno game;
        - 149 (E) a video lotto game;
        - 150 (F) an 8-liner machine;
        - 151 (G) a Pot O' Gold game;

152 (H) a video game involving a random or chance matching of pictures, words, numbers,  
153 or symbols; or

154 (I) a video game that reveals a prize as the game is played; or

155 (vi) otherwise create a pretextual transaction to facilitate a contest, game, gaming  
156 scheme, or sweepstakes in an attempt to circumvent the requirements of this part or Article VI,  
157 Section 27, of the Utah Constitution.

158 (17) "Skill-based game" means a game, played on a machine or device, the outcome of  
159 which is based, in whole or in part, on the skill of the player, regardless of whether a degree of  
160 chance is involved.

161 (18) "Sweepstakes" means a game, advertising scheme, marketing scheme, or other  
162 promotion:

163 (a) that an individual may enter with or without payment of any consideration;

164 (b) that qualifies the person to win a prize; and

165 (c) the result of which is based on chance.

166 (19) "Vending machine" means a device:

167 (a) that dispenses merchandise in exchange for money or any other item of value;

168 (b) that provides full and adequate return of the value deposited;

169 (c) through which the return of value is not conditioned on an element of chance or  
170 skill; and

171 (d) (i) does not include a promotional activity; or

172 (ii) includes a promotional activity that is clearly ancillary to the primary activity of a  
173 business.

174 (20) "Video gaming device" means a device that includes all of the following:

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

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

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

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

183 (i) does not significantly extend the length of play time of any single game; and  
184 (ii) provides for a chance of greater return of credits, games, or money; and  
185 (e) an operating mechanism that, in order to function, requires inserting money, tokens,  
186 or other valuable consideration other than entering the user's name, birthdate, or contact  
187 information.