

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on temporary basis, Title 25 of the District of Columbia Official Code to authorize, define, and regulate games of skill.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Revised Game of Skill Machines Consumer Protections Temporary Amendment Act of 2020”.

Sec. 2. The Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code §§ 22-1716 to 22-1718 and 36-601.01 *et seq.*), is amended as follows:

(a) Section 4 (D.C. Official Code § 36-601.12) is amended as follows:

(1) The section heading is amended to read as follows:

“Sec. 4. Lottery, Gambling, and Gaming Fund.”

(2) Subsection (a) is amended to read as follows:

“(a) There is established as an enterprise fund the Lottery, Gambling, and Gaming Fund (“Fund”), which shall be administered by the Chief Financial Officer. Revenue from the following sources shall be deposited into the Fund or a division of the Fund, as established by the Chief Financial Officer:

“(1) All funds generated by gambling activities operated or licensed by the Chief Financial Officer; and

“(2) All fees collected pursuant to sections 406 through 408.”

(3) Subsection (c) is amended by striking the word “gambling” and inserting the phrase “gambling and gaming” in its place.

(b) A new Title IV is added to read as follows:

“TITLE IV. GAME OF SKILL MACHINES.

“Sec. 401. Definitions

“For purposes of this title, the term:

“(1) “ABC Board” means the Alcoholic Beverage Control Board, established by D.C. Official Code §25-201.

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“(2) “ABRA” means the Alcoholic Beverage Regulation Administration, established by D.C. Official Code § 25-202.

“(3) “CFO” means the Chief Financial Officer of the District of Columbia.

“(4) “Centralized accounting system” means the accounting system linked by a communications network as described in sections 409 and 413.

“(5) “Distributor” means a person licensed under this title to:

“(A) Buy or lease game of skill machines, or any major components or parts of a game of skill machine, from manufacturers for sale or lease and distribution to retailers; or

“(B) To maintain or service a retailer’s game of skill machine, or any major component or part of a game of skill machine.

“(6) “Game of skill machine” means a mechanical or electronic gaming device that rewards the winning player or players with cash, a gift card, or a voucher that can be redeemed for cash. A mechanical or electronic gaming device shall not be considered a game of skill machine if:

“(A) The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;

“(B) The outcome of the game can be controlled by a source other than a player playing the game;

“(C) The success of a player is or may be determined by a chance event that cannot be altered by the player’s actions;

“(D) The ability of a player to succeed at the game is impacted by game features not visible or known to a reasonable player; or

“(E) The ability of a player to succeed at the game is impacted by the exercise of skill that no reasonable player could exercise.

“(7) “Game of skill machine gross revenue” means the total of cash or cash equivalents received from a game of skill machine minus the total of:

“(A) Cash or cash equivalents paid to players as a result of a game of skill machine;

“(B) Cash or cash equivalents paid to purchase annuities to fund prizes payable to players over a period of time as a result of a game of skill machine; and

“(C) The actual cost paid by the license holder for personal property distributed to a player as a result of a game of skill machine, excluding travel expenses, food, refreshments, lodging, and services.

“(8) “Licensed establishment” means an on-premises retail establishment licensed by the ABC Board to sell, serve, and allow for the consumption of alcoholic beverages.

“(9) “Licensed premises” means the physical location of a licensed establishment that is authorized by the Office to offer game of skill machines.

“(10) “Licensee” means a person who possesses a game of skill manufacturer, distributor, or retailer license issued by the Office.

“(11) “Manufacturer” means a person that is licensed under this title that manufactures or assembles game of skill machines for sale or lease to distributors or provides to distributors major components or parts of game of skill machines for the repair or maintenance of game of skill machines.

“(12) “Office” means the Office of Lottery and Gaming.

“(13) “Retailer” means a person that is licensed under this title to offer game of skill machines on its licensed premises.

“Sec. 402. Authorization of game of skill machines.

“The operation of game of skill machines shall be lawful in the District if conducted in accordance with this title and the rules issued pursuant to this title.

“Sec. 403. Game of skill machine license requirements; prohibition.

“(a) No person may carry out a function of a manufacturer, distributor, or retailer after March 31, 2021, unless the person has obtained the applicable license or licenses required by this title, or by rules issued pursuant to this title.

“(b)(1) The Office shall issue the following categories of game of skill machine licenses:

“(A) Manufacturer;

“(B) Distributor; and

“(C) Retailer.

“(2) The Office shall not grant a license listed in paragraph (1) of this subsection until it has determined that each person that possesses 10% or greater beneficial or proprietary interest in the applicant has been approved for licensure in accordance with this title and rules issued pursuant to this title; provided, that the Office shall not be required to make such a determination with respect to a person that is an institutional investor unless the institutional investor possesses 25% or greater beneficial or proprietary interest in the applicant.

“(c)(1) An applicant for an initial manufacturer or distributor license shall be subject to District and national criminal history background checks.

“(2) The applicant shall submit an application to the Office, in a form determined by the Office, for fingerprints for a national criminal records check by the Metropolitan Police Department and the Federal Bureau of Investigation of all individuals required to be named in the application and a signed authorization of each individual submitting fingerprints for the release of information by the Metropolitan Police Department and the Federal Bureau of Investigation.

“(3) In the case of an application for license renewal, the Office may require additional background checks.

“(d) The Office shall require proof of good standing pursuant to D.C. Official Code § 29-102.08 of an applicant for a license pursuant to this title and may, in addition, require

certification that the Citywide Clean Hands Database indicates that the proposed licensee is current with its District taxes.

“(e) Proprietary information, trade secrets, financial information, and personal information about a person in an application submitted to the Office pursuant to this title shall not be a public record and shall not be made available under the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), or any other law.

“(f)(1) A retailer shall display its license as required by section 410(e) and shall make the license immediately available for inspection upon request by an employee of the Office, the Metropolitan Police Department, or ABRA.

“(2) When present at a licensed establishment, an employee of a distributor shall carry a copy of its license and make it readily available for inspection by an employee of the Office, the Metropolitan Police Department, or ABRA.

“Sec. 404. License prohibitions; suspensions and revocation of licenses.

“(a) An applicant convicted of a disqualifying offense shall not be licensed. The Office shall define disqualifying offenses by a rule issued pursuant to this title.

“(b) No employee of the Office or ABRA or member of the ABC Board, or immediate family member of an employee of the Office or ABRA or member of the ABC Board, may be an applicant for, have an interest in, or obtain a license issued pursuant to this title.

“(c) Failure of an applicant or licensee to notify the Office of a change to the information provided in its application for license or renewal within 10 days after the change may result in the Office suspending or revoking the licensee’s license, denying the applicant’s license, and issuing a fine.

“(d)(1) The Office shall not grant a license pursuant to this title, and shall revoke a license previously granted, if evidence satisfactory to the Office exists that the applicant or licensee has:

“(A) Knowingly made a false statement of a material fact to the Office;

“(B) Had a license revoked by a governmental authority responsible for regulation of games of skill;

“(C) Been convicted of a felony and has not received a pardon or been released from parole or probation for at least 5 years; or

“(D) Been convicted of a gambling-related offense or a theft or fraud offense.

“(2) The Office may deny a license to an applicant or suspend or revoke a license of a licensee if the applicant or licensee:

“(A) Has not demonstrated, to the satisfaction of the Office, financial responsibility sufficient to adequately meet the requirement of the proposed activity;

“(B) Is not the true owner of the licensed business or has not disclosed the existence or identity of another individual or entity that has an ownership interest in the business; or

“(C) Is an entity that sells more than 10% of a licensee’s voting interests, more than 10% of the voting interests of an entity that controls the licensee, or sells a licensee’s assets to an individual or entity not already determined by the Office to have met the qualifications of a licensee pursuant to this title.

“Sec. 405. Conflicts of interest.

“(a) Before issuing, authorizing the transfer to a new owner of, or renewing a license, the Office shall determine that the applicant is not disqualified because of a conflicting interest in another license.

“(b) In making a determination regarding a conflicting interest, the following standards shall apply:

“(1) No licensee under a distributor’s license shall hold a license in another license issued under this title; except, that the holder of a distributor’s license may also hold a manufacturer’s license.

“(2) No licensee under a manufacturer’s license shall hold another license issued under this title; except, that the holder of a manufacturer’s license may also hold a distributor’s license.

“Sec. 406. Manufacturer licensure.

“(a)(1) A person may not, after March 31, 2021, manufacture a game of skill machine in the District or manufacture and cause to be delivered into the District a game of skill machine, unless the person has a valid manufacturer’s license issued under this title.

“(2) A manufacturer may, after March 31, 2021, only sell or lease game of skill machines for use in the District to persons having a valid distributor’s license.

“(b) A person applying for a manufacturer’s license shall do so on a form prescribed by the Office. The form shall require:

“(1) The name of the applicant;

“(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

“(3) A report of the applicant’s financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

“(4) Such other information as the Office may require by rule.

“(c) In considering whether to approve an application for a manufacturer’s license, the Office may consider, among such other evidence as may come before the Office, evidence of the applicant’s licensure, conduct, and activities in another jurisdiction.

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“(d) An applicant for a manufacturer’s license shall pay a nonrefundable application fee of \$10,000 with the application.

“(e) A manufacturer’s license shall be renewed annually; provided, that the licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of its renewal application a \$5,000 renewal fee.

“Sec. 407. Distributor licensure.

“(a) A person may not, after March 31, 2021, engage in any of the following activities unless the person has a valid distributor’s license issued by the Office:

“(1) Buy or lease from a manufacturer a game of skill machine for distribution in the District;

“(2) Sell, lease, or distribute a game of skill machine in the District or market for sale, lease, or distribution a game of skill machine in the District; or

“(3) Repair, replace, maintain, or service a game of skill machine or a major component or part of a game of skill machine in the District or market the repair, replacement, or maintenance of a game of skill machine or a major component or part of a game of skill machine in the District.

“(b) A licensed distributor may sell, lease, or distribute a game of skill machine, or repair, replace, maintain, or service a game of skill machine or any major component or part of a game of skill machine in the District to a licensed establishment that possesses a game of skill machine endorsement from the ABC Board pursuant to D.C. Official Code § 25-113.01(e), and after March 31, 2021, a retailer’s license from the Office. No distributor may give anything of value, including a loan or financing agreement, to a licensed establishment as an incentive or inducement to locate a game of skill machine in the establishment; provided, that a distributor may provide funding to a licensed establishment for the payment of winnings to players of the distributor’s game of skill machines in the licensed establishment.

“(c) A person applying for a distributor’s license shall do so on a form prescribed by the Office. The form shall require:

“(1) The name of the applicant;

“(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

“(3) A report of the applicant’s financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

“(4) Such other information as the Office may require by rule.

“(d) In considering whether to approve an application for a distributor’s license, the Office may consider, among such other evidence that may come before the Office, evidence of the applicant’s licensure, conduct, and activities in another jurisdiction.

“(e) An applicant for a distributor’s license shall demonstrate that the equipment, system, or device that the applicant plans to offer to retailers conforms to standards established pursuant to this title, the rules issued pursuant to this title, and other applicable law.

“(f) An applicant for a distributor’s license shall pay a nonrefundable application fee of \$10,000 with the application.

“(g) A distributor’s license shall be renewed annually; provided, that the licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of its renewal application a \$5,000 renewal fee.

“(h) A distributor shall submit to the Office, at such times as are established by the Office by rule, a list of all models and versions of game of skill machines sold, delivered, or offered to a retailer. All such equipment shall be tested and approved by an independent testing laboratory approved as provided in section 409.

“Sec. 408. Retailer licensure.

“(a) A person may not offer or allow for play a game of skill machine at the location in the District unless the location:

“(1) Is a licensed establishment;

“(2) Possesses a game of skill machine endorsement from ABRA in accordance with D.C. Official Code § 25-113.01(e), and, after March 31, 2021, a retailer’s license from the Office; and

“(3) Has entered into a written use agreement with a licensed distributor (or before April 1, 2021, with a distributor) for the placement or installation of a game of skill machine or machines on the licensed premises.

“(b) A person shall apply for a retailer’s license on a form prescribed by the Office. The form shall require:

“(1) The name of the applicant;

“(2) The mailing address of the applicant and, if the applicant is a corporation, the name of the state in which it is incorporated, the location of its principal place of business, and the names and addresses of its directors;

“(3) At the discretion of the Office, a report of the applicant’s financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, and tax returns; and

“(4) Any other information the Office considers necessary.

“(c) An applicant for a retailer’s license shall pay a nonrefundable application fee of \$300 with the application.

“(d) A retailer’s license shall be renewed annually; provided, that the licensee continued to comply with the statutory and regulatory requirements and pays upon submission of its renewal application a \$300 renewal fee.

“(e) The Office may require a retailer to be bonded, in such amounts and in such manner as determined by the Office.

“(f) Game of skill machines shall not be offered or allowed to be played in the District other than at an establishment licensed as a retailer.

“Sec. 409. Minimum requirements of game of skill machines.

“(a)(1)) No model or version of a game of skill machine shall be offered for distribution or play in the District unless the model or version of the game of skill machine has first been tested and approved as a game of skill machine pursuant to this title and the rules issued pursuant to this title; except, that:

“(A) A model or version of a game of skill machine for which an endorsement was approved by the ABC Board under D.C. Official Code § 25-401 before October 1, 2020, shall not be subject to testing or approval under this section unless required by the Office by rule; provided, that each such game of skill machine shall be required to comply with subsection (b)(12) of this section.

“(B) A model or version of a game of skill machine may be approved by the Office before January 1, 2021, if it meets the requirements of subsection (b)(1) through (12) of this section, regardless of whether the Office has issued minimum standard rules pursuant to subsection (b) of this section, and the game of skill machine shall not be required to come into compliance with the minimum standard rules issued by the Office pursuant to subsection (b) of this section until such date as shall be set forth by the Office in such rules.

“(2) The Office, or the applicant at the direction of the Office, shall utilize the services of an Office-approved independent outside testing laboratory to test and assess the model or version of the game of skill machine.

“(3) The applicant shall be responsible for paying the costs associated with testing the model or version of the game of skill machines.

“(b) Except as otherwise provided in subsection (a)(1)(A) and (B) of this section, every game of skill machine offered in the District shall meet the minimum standards-established by the Office by rule. The minimum standards shall, include the following:

“(1) The game of skill machine shall conform to all requirements of federal law and regulations, including the Federal Communications Commission’s Class A emissions standards.

“(2) The game of skill machine shall display an accurate representation of the game outcome.

“(3) The game of skill machine shall not automatically alter pay tables or any function of the game of skill machine based on an internal computation of a hold percentage or have a means of manipulation that affects the random selection process or probabilities of winning a game.

“(4) The game of skill machine shall not be negatively affected by static discharge or other electromagnetic interference.

“(5) The game of skill machine shall be capable of displaying the following during idle status: “power reset”; “door open”; or “door closed”.

“(6) The game of skill machine shall be able to detect and display the game’s complete play history and winnings for the previous 10 games.

“(7) The theoretical payback percentage of a game of skill machine shall not be capable of being changed without making a hardware or software change in the machine itself.

“(8) The game of skill machine shall be designed so that the replacement of parts or modules required for normal maintenance does not necessitate replacement of the electromechanical meters.

“(9) The game of skill machine shall contain a non-resettable meter, which shall be located in a locked area of the machine that is accessible only by a key.

“(10) The game of skill machine shall be capable of storing the meter information required by paragraph (9) of this subsection for a minimum of 180 days after a power loss to the machine.

“(11) The game of skill machine shall have accounting software that keeps an electronic record that includes:

“(A) Total cash or other value inserted into the game of skill machine;

“(B) The value of winning tickets awarded to players by the game of skill machine;

“(C) The total credits played on the game of skill machine;

“(D) The total credits awarded by the game of skill machine; and

“(E) The payback percentage credited to players of the game of skill machine.

“(12) The game of skill machine shall be connected to a centralized accounting system in accordance with section 413 for the purposes set forth in section 413; except, that a game of skill machine that has been approved for operation or distribution in the District by ABRA or the Office before the date designated by the Office pursuant to section 413(a)(2)(B) shall be allowed until the date designated by the Office pursuant to section 413(a)(2)(B) to come into compliance with this paragraph.

“(c) The Office may issue rules to establish additional licensing and registration requirements for the purposes of preserving the integrity and security of game of skill machines in the District, including by prohibiting game of skill machines that approximate the look or feel of a gambling device.

“Sec. 410. Registration; display of registration sticker, license, and warning sign; locations of game of skill machines.

“(a) After March 31, 2021, no distributor shall distribute a game of skill machine to a retailer or allow the continued distribution of its game of skill machine at a retailer’s licensed establishment, and no retailer shall allow the distribution of a game of skill machine to the retailer or allow the installation or operation of a game of skill machine at its licensed establishment, unless:

“(1) The game of skill machine is registered with the Office; and

“(2) A registration sticker issued by the Office is affixed to and maintained on the game of skill machine.

“(b) The Office shall issue to a distributor or retailer, after approval of an application for registration of a game of skill machine filed by the distributor or retailer with the Office, a registration sticker for placement on the registered game of skill machine. The registration fee for each game of skill machine shall be \$100. If the registration sticker is damaged, destroyed, lost, or removed, the retailer shall pay the Office \$75 for a replacement registration sticker.

“(c)(1) A distributor shall not distribute more than 5 game of skill machines to a licensed establishment at any time.

“(2) A retailer shall not allow more than 5 game of skill machines to be operated or located on a licensed premises at any time.

“(d) A retailer shall locate its game of skill machines for play only in specific locations approved by ABRA within the retailer’s licensed establishment.

“(e) A retailer shall post a warning sign and, after March 31, 2021, its retailers license, both maintained in good repair and in a place clearly visible at the point of entry to the designated areas where the game of skill machines are located. The warning sign shall include:

“(1) The minimum age required to play a game of skill machine;

“(2) The contact information for the District’s gambling hotline; and

“(3) The contact information for the Office of Lottery and Gaming for purposes of filing a complaint against the manufacturer, distributor, or retailer.

“(f) Failure to display the registration sticker, license, or warning sign may result in the Office revoking or suspending the license or issuing a fine against the licensed establishment pursuant to section 415.

“Sec. 411. Cash award.

“(a) A game of skill machine shall not directly dispense cash awards to a player. If, at the conclusion of the game, a player is entitled to a cash award, the game of skill machine shall dispense a ticket or voucher to the player. The ticket or voucher shall indicate:

“(1) The total amount of the cash award;

“(2) The time of day that the cash award was issued in a 24-hour format showing hours and minutes, the date, the terminal serial number, and the sequential number of the ticket or voucher; and

“(3) An encrypted validation number from which the validity of the cash award may be determined.

“(b) A retailer shall allow a player to take the ticket or voucher to the owner of the licensed establishment or the owner’s designee, who shall be located at the licensed establishment, for payment of the cash award.

“Sec. 412. Game of skill machine use by minors prohibited.

“(a) A licensee shall not permit a person under the age of 18 to use or play a game of skill machine.

“(b) The Office may suspend or revoke a license and issue a fine, in accordance with section 415, against a licensee that knowingly allows a person under the age of 18 to use or play a game of skill machine.

“Sec. 413. Centralized accounting system.

“(a)(1) Within 365 days after the effective date of this title, the Office shall procure a centralized accounting system for games of skill machines, which shall be linked to a communications networks. All games of skill machines registered in the District shall connect to the centralized accounting system through the communications network. The centralized accounting system shall be administered by the Office and shall allow for the accounting, reporting, monitoring, and reading of game of skill machine activities by the District for the purposes of assisting the Office in determining compliance with, and enforcing, the provisions of this title and the rules issued pursuant to this title. The centralized accounting system shall also allow for game of skill machines to be activated and deactivated remotely by the Office.

“(2) When the Office is satisfied with the operation of the centralized accounting system, it shall:

“(A) Certify the effective status of the system; and

“(B) Notify all retailers of the date by which the distributor’s and retailer’s game of skill machines must be linked to the centralized accounting system, which date shall not be less than 90 days after the date of the effective status of the centralized accounting system.

“(b) The centralized accounting system shall not provide for the monitoring or reading of personal or financial information concerning patrons of game of skill machines.

“(c) An employee or agent of a contractor or subcontractor of the Office that is engaged in building, operating, maintaining, or contracting to build, operate, or maintain the centralized accounting system, and the immediate family members of such employee or agent, shall be prohibited from obtaining a license under this title.

“(d) Unless a retailer’s license is canceled, suspended, or revoked, nothing in this section shall authorize the Office to limit or eliminate a registered game of skill from the centralized accounting system.

“Sec. 414. Insurance.

“The Office may require by rule issued pursuant to this title that a distributor maintain liability insurance on the game of skill machines that it places in licensed establishments or that a retailer maintain liability insurance on the game of skill machines that are located in its licensed establishment.

“Sec. 415. Penalties.

“(a) In the event of a violation of this title or a rule issued pursuant to this title, the Office may:

“(1) Impose a fine of not more than \$50,000;

“(2) Revoke a licensee’s license; or

“(3) Suspend the licensee’s license for up to one year.

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“(b) A person that has been fined or whose application has been denied, revoked, or suspended pursuant to this section shall have a right to a hearing before the Office and, in the event of the Office’s affirmation of the fine, denial, revocation, or suspension, the right to appeal the decision of the Office to the Superior Court of the District of Columbia.

“(c) The Office shall notify ABRA within 48 hours after the Office suspends or revokes a retailer’s license.

“Sec. 416. Authority of the Office.

“(a) The Office may enforce the provisions of this title with respect to licensees and with respect to any individual or entity not holding a license and offering a game of skill machine in violation of the provisions of this title or rules issued pursuant to this title.

“(b) Subject to subsection (c) of this section, the Office and the Metropolitan Police Department may issue citations for civil violations of this title as set forth in rules issued pursuant to this title.

“(c) A citation for a violation for which the penalty includes the suspension or revocation of a license shall be issued by the Office as a result of an investigation carried out by the Office.

“(d) The Office, ABRA, or Metropolitan Police Department may request and check the identification of a person who has played, is playing, or is attempting to play a game of skill machine. The Office or Metropolitan Police Department may seize evidence that substantiates a violation under this title, which may include seizing the tickets, vouchers, or cash awards issued to a person under the age of 18 and fake identification documents used by a person under the age of 18.

“(e) The Office may seize a game of skill machine license from an establishment if:

“(1) The game of skill machine license has been suspended, revoked, or cancelled by the Office;

“(2) The business is no longer in existence; or

“(3) The business has been closed by another District government agency.

“Sec. 417. Investigations and inspections.

“(a) The Office may conduct investigations, searches, seizures, and perform other duties authorized by this title and rules issued pursuant to this title.

“(b) An applicant for a license and each licensee shall allow an authorized member of the Office, an ABRA investigator, or any member of the Metropolitan Police Department full opportunity to examine at any time during business hours:

“(1) The location on the premises where game of skill machines are available to play; and

“(2) The books and records of the licensee or applicant.

“Sec. 418. Unlawful acts; action by the Attorney General.

“(a)(1) No manufacturer, distributor, licensed establishment, or employee or agent of a manufacturer, distributor, or licensed establishment shall intentionally make a false or

misleading representation concerning an individual's chances, likelihood, or probability of winning at playing a game of skill machine.

“(2) An individual or entity claiming to be aggrieved by a fraudulent act or a false or misleading statement by a licensee shall have a cause of action in a court of competent jurisdiction for damages and any legal or equitable relief as may be appropriate.

“(b) The Attorney General for the District of Columbia, in the name of the District of Columbia, may bring an action in the Superior Court of the District of Columbia to enjoin an individual or entity or to seek a civil penalty of up to \$50,000 for a violation of this title or rule issued pursuant to this title.

“Sec. 419. Taxation of game of skill machines.

“(a) A tax shall be imposed on all persons owning a game of skill machine located in the District for the privilege of operating a game of skill machine in the District.

“(b) The rate of tax shall be 10% of the game of skill machine gross revenue from each game of skill machine in the District.

“(c) On or before the 20th calendar day of each month, each owner of a game of skill machine located in the District shall file a return with the CFO, on forms and in the manner prescribed by the CFO, indicating the amount of game of skill machine gross revenue for the owner's game of skill machines for the preceding calendar month and the amount of tax for which the owner is liable.

“(d) All funds owed to the District under this section shall be held in trust for the District in federally insured depository institution that maintains an office in the District until the funds are paid to the District of Columbia Treasurer.

“(e) Each owner of a game of skill machine located in the District shall keep a record of the game of skill machine gross revenue, awards, and net income of each game of skill machine in such form as the CFO may require.

“(f) An owner of a game of skill who fails to pay the tax imposed by this section shall be subject to all collection, enforcement, and administrative provisions applicable to unpaid taxes or fees, as provided in Chapters 41, 42, 43, and 44 of Title 47 of the District of Columbia Official Code.

“(g) Notwithstanding D.C. Official Code § 47-4406, the CFO may disclose the total amount of game of skill machine gross revenue collected in the periodic estimates and reports of revenues.

“Sec. 420. Deposit of license fees.

“All fees collected under sections 406 through 408 shall be deposited in the Lottery, Gambling, and Gaming Fund, established by section 4 (D.C. Official Code § 36-601.12).

“Sec. 421. Rules and regulations governing game of skill machines.

“(a) The CFO, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), shall by January 2021, issue rules to implement the provisions of this title.

- “(b) The rules issued by the CFO pursuant to subsection (a) of this section shall include:
- “(1) Minimum standards under section 409(b);
 - “(2) Standards for conducting inspections of game of skill machines for compliance with industry standards;
 - “(3) Standards for inspecting licensed establishments for compliance with this title;
 - “(4) Minimum and maximum payment amounts for playing game of skill machines;
 - “(5) The maximum amount of allowable winnings per game;
 - “(6) Requirements relating to how fees and taxes are to be remitted;
 - “(7) The method of accounting to be used by a licensed establishment where a game of skill machine is authorized;
 - “(8) Methods of age verification;
 - “(9) Types of records that shall be required to be maintained by a licensee;
 - “(10) Posting requirements;
 - “(11) Advertising guidelines, including specific language concerning individuals under the age of 18;
 - “(12) Penalties for a violation of this title or rule issued pursuant to this title; and
 - “(13) Internal control standards for game of skill machines.”.

Sec. 3. Title 25 of the District of Columbia Official Code is amended as follows:

(a) Chapter 1 is amended as follows:

(1) Section 25-101 is amended as follows:

(A) A new paragraph (22B) is added to read as follows:

“(22B) “Game of skill machine” has the meaning set forth in section 401(6) of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, passed on 2nd reading on October 20, 2020 (Enrolled version of Bill 23-945).”.

(B) A new paragraph (53A) is added to read as follows:

“(53A) “Voucher” means a ticket issued by a game of skill machine that is redeemable for cash winnings.”.

(2) Section 25-113a is amended as follows:

(A) The section is redesignated as § 25-113.01.

(B) The section heading is amended to read as follows:

“§ 25-113.01. License endorsements.”.

(C) A new subsection (e) is added to read as follows:

“(e)(1) A licensee under a manufacturer’s license class A or B holding an on-site sales and consumption permit, or an on-premises retailer’s license, class C/R, D/R, C/H, D/H, C/T,

D/T, C/N, D/N, C/X, or DX, shall obtain a game of skill machine endorsement from the Board in order to offer a game of skill machine on the licensed premises.

“(2)(A) A game of skill machine shall not be placed on outdoor public or private space; except, that the Board, in its discretion, may allow for the placement of a game of skill machine on outdoor public or private space if, in the Board’s determination, activity associated with the game of skill machine is:

“(i) Not visible from a public street or sidewalk;

“(ii) Adequately secured against unauthorized entrance; and

“(iii) Accessible only by patrons from within the establishment.

“(B) Subparagraph (A) of this paragraph shall not apply to a licensee operating a passenger-carrying marine vessel in accordance with § 25-113(h).”.

(b) Section 25-401 is amended by adding a new subsection (e) to read as follows:

“(e) An applicant for a game of skill machine endorsement shall submit to the Board with its application:

“(1) A diagram of where the game of skill machines will be placed on the licensed premises; and

“(2) The name of the manufacturer and distributor of the game of skill machines and documentation reflecting that the manufacturer and distributor are licensed to do business and pays taxes in the District of Columbia.”.

(c) Section 25-508 is amended to read as follows:

“25-508. Minimum fee for permits, and manager’s license, and endorsement.

“The minimum fees for permits, manager’s license, and endorsement shall be as follows:

“Tasting permit for class A licensees \$100/year

“Importation permit \$5

“Manager’s license \$100/year

“On-site sales and consumption permit \$1,000/year

“Game of skill machine endorsement \$200”.

(d) Chapter 7 is amended as follows:

(1) The table of contents is amended by adding a new section designation to read as follows:

“§ 25-786. Game of skill machine operating requirements.”.

(2) Section 25-763 is amended by adding a new subsection (g) to read as follows:

“(g) Exterior signs advertising game of skill machines shall be prohibited on the licensed establishment.”.

(3) Section 25-765 is amended by adding a new subsection (c) to read as follows:

“(c) Advertisements related to game of skill machines shall not be placed on the interior or exterior of a window or on the exterior of a door that is used to enter or exit the licensed establishment.”.

(4) A new section 25-786 is added to read as follows:

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“§ 25-786. Game of skill machine operating requirements.

“A licensee with a game of skill machine endorsement shall:

“(1) Not allow or permit a person under 18 years of age to play a game of skill machine and shall designate an employee to regularly monitor the designated area where game of skill machines are played to ensure that no person under 18 years of age is playing or attempting to play a game of skill machine;

“(2) Verify that each person playing a game of skill machine is lawfully permitted to do so by checking the person’s government-issued identification document upon entry into either the licensed establishment or the designated area where the game of skill machines are located and where the person seeks to cash out his or her winnings, if any; except, that the failure of a licensee to verify a person’s identification shall not be a violation of this paragraph if the person whose identification was not checked is 18 years of age or older;

“(3) Not allow or permit a person that appears intoxicated or under the influence of a narcotic or other substance to play a game of skill machine;

“(4) Not share revenue from the licensee’s sale of alcohol with a manufacturer or distributor of a game of skill machine, unless approved by the Board as an owner of the license;

“(5) Not allow or permit the placement of a game of skill machine on an outdoor public or private space that has not been approved by the Board;

“(6) Not allow or permit the placement of a game of skill machine outside of the designated areas contained on the applicant’s diagram provided as part of the license application or outside the areas approved by the Board;

“(7) Not have more than 5 game of skill machines on the licensed premises; and

“(8) Install security cameras that are operational and record for 30 days, in the areas designated for game of skill machines, near the cash register or terminal where cash winnings of game of skill machines are processed, and where the licensee’s money is stored.”.

(e) Section 25-801 is amended by adding a new subsection (h) to read as follows:

“(h) An ABRA investigator may request and check the identification of a person who has played, is playing, or is attempting to play a game of skill machine. An ABRA investigator may seize fake identification used by a person under 18 years of age and may seize such records related to a game of skill machine as the investigator considers appropriate to investigate the playing of a game of skill machine by a person under 18 years of age.”.

Sec. 4. Section 865 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1331; D.C. Official Code § 22-1704), is amended as follows:

(a) The existing text is designated as subsection (a).

(b) A new subsection (b) is added to read as follows:

“(b) It shall be unlawful to install or operate a game of skill machine in the District except as permitted by Title IV of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo Raffles for Charitable Purposes in the District of Columbia, passed on 2nd reading on October 20, 2020 (Enrolled version of Bill 23-945) (“Title IV”). Whoever shall install or operate a game of skill machine in the District in violation of Title IV shall be guilty of a misdemeanor and, upon conviction thereof, shall be imprisoned for not more than 180 days or fined not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code-§ 22-3571.01), or both.”.

Sec. 5. Repealers.

(a) The Games of Skill Machines Consumer Protection Emergency Amendment Act of 2020, enacted on August 28, 2020 (D.C. Act 23-404; 67 DCR 10098), is repealed.

(b) The Games of Skill Machines Consumer Protection Amendment Act of 2020, enacted on August 31, 2020 (D.C. Act 23-407; 67 DCR 10493), is repealed.

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 7. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia

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