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**GAMBLING AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Don L. Ipson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**Committee Note:**

The Judiciary, Law Enforcement, and Criminal Justice Interim Committee recommended this bill.

**General Description:**

This bill modifies the Criminal Code regarding gambling.

**Highlighted Provisions:**

This bill:

▶ amends the definition of certain promotional activities that are exempted from "fringe gambling."

**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 2009, Chapter 382

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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.**



28 As used in this part:

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

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

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

34 ~~[(b) "Fringe gambling" does not include a gambling, lottery, video gaming device, or  
35 other promotional activity which is clearly occasional and ancillary to the primary activity of  
36 the business.]~~

37 (b) "Fringe gambling" does not mean a promotional activity that is clearly ancillary to  
38 the primary activity of a business.

39 (c) Determination of whether a promotional activity is clearly ancillary under  
40 Subsection (1)(b) is by consideration of the totality of the circumstances, which may include  
41 one or more of these factors:

42 (i) the manner in which the business is marketed, advertised, or promoted;

43 (ii) whether and the degree to which the business provides instructions regarding the  
44 use or operation of the promotional activity, as compared to the use or operation of the goods  
45 or services sold by the business;

46 (iii) the availability and terms of any free play option to engage in the promotional  
47 activity;

48 (iv) whether any contest, sweepstakes, or other promotional entries provided to  
49 customers who purchase goods or services from the business provide any advantage in winning  
50 a prize over any advantage provided to participants in the promotional activity who do not  
51 purchase goods or services from the business;

52 (v) whether the goods or services promoted for purchase by the business are on terms  
53 that are commercially reasonable; and

54 (vi) whether any prize won by participation in the promotion may be parlayed into one  
55 or more additional opportunities to win an additional prize.

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

- 59 (i) is based upon an element of chance; and  
60 (ii) is in accord with an agreement or understanding that someone will receive  
61 something of value in the event of a certain outcome.
- 62 (b) "Gambling" includes a lottery and fringe gambling.
- 63 (c) "Gambling" does not include:  
64 (i) a lawful business transaction; or  
65 (ii) playing an amusement device that confers only an immediate and unrecorded right  
66 of replay not exchangeable for value.
- 67 (3) "Gambling bet" means money, checks, credit, or any other representation of value.
- 68 (4) "Gambling device or record" means anything specifically designed for use in  
69 gambling or used primarily for gambling.
- 70 (5) "Gambling proceeds" means anything of value used in gambling.
- 71 (6) "Lottery" means any scheme for the disposal or distribution of property by chance  
72 among persons who have paid or promised to pay any valuable consideration for the chance of  
73 obtaining property, or portion of it, or for any share or any interest in property, upon any  
74 agreement, understanding, or expectation that it is to be distributed or disposed of by lot or  
75 chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.
- 76 (7) "Video gaming device" means any device that possesses all of the following  
77 characteristics:  
78 (a) a video display and computer mechanism for playing a game;  
79 (b) the length of play of any single game is not substantially affected by the skill,  
80 knowledge, or dexterity of the player;  
81 (c) a meter, tracking, or recording mechanism that records or tracks any money, tokens,  
82 games, or credits accumulated or remaining;  
83 (d) a play option that permits a player to spend or risk varying amounts of money,  
84 tokens, or credits during a single game, in which the spending or risking of a greater amount of  
85 money, tokens, or credits:  
86 (i) does not significantly extend the length of play time of any single game; and  
87 (ii) provides for a chance of greater return of credits, games, or money; and  
88 (e) an operating mechanism that requires inserting money, tokens, or other valuable  
89 consideration in order to function.

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**Legislative Review Note**  
**as of 11-1-11 3:49 PM**

**Office of Legislative Research and General Counsel**