

SECOND REGULAR SESSION

HOUSE BILL NO. 1941

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZPATRICK.

5525H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 572.010 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session and section 572.010 as enacted by Referendum, Proposition A, November 3, 1992, and to enact in lieu thereof one new section relating to gambling.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 572.010 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session and section 572.010 as enacted by Referendum, Proposition A, November 3, 1992, are repealed and one new section enacted in lieu thereof, to be known as section 572.010, to read as follows:

572.010. As used in this chapter the following terms mean:

(1) "Advance gambling activity", a person advances gambling activity if, acting other than as a player, he or she engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes but is not limited to conduct directed toward the creation or establishment of the particular game, lottery, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement or communication of any of its financial or recording phases, or toward any other phase of its operation. A person advances gambling activity if, having substantial proprietary control or other authoritative control over premises being used with his or her knowledge for purposes of gambling activity, he or she permits that activity to occur or continue or makes no effort to prevent its occurrence or continuation. The supplying, servicing and operation of a licensed excursion gambling boat under sections 313.800

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 to 313.840 does not constitute advancing gambling activity. **The offering and operating of a**
15 **fantasy contest as defined in this section does not constitute advance gambling activity;**

16 (2) "Bookmaking", advancing gambling activity by unlawfully accepting bets from
17 members of the public as a business, rather than in a casual or personal fashion, upon the
18 outcomes of future contingent events;

19 (3) "Contest of chance", any contest, game, gaming scheme or gaming device in which
20 the outcome depends in a material degree upon an element of chance, notwithstanding that the
21 skill of the contestants may also be a factor therein;

22 (4) **"Fantasy contest", any fantasy or simulated game or contest, which may include**
23 **payment of an entry fee, in which:**

24 (a) **Winning participants are eligible to receive cash or anything else of value;**

25 (b) **The value of all prizes and awards offered to winning participants are**
26 **established and made known to the participants in advance of the contest;**

27 (c) **All winning outcomes reflect the relative knowledge and skill of the participants**
28 **and shall be determined predominantly by accumulated statistical results of the**
29 **performance of individuals, including athletes in the case of sports events; and**

30 (d) **No winning outcome is based on the score, point spread, or any performance**
31 **or performances of any single actual team or combination of such teams or solely on any**
32 **single performance of an individual athlete or player in any single actual event;**

33 (5) "Gambling", a person engages in gambling when he or she stakes or risks something
34 of value upon the outcome of a contest of chance or a future contingent event not under his or
35 her control or influence, upon an agreement or understanding that he or she will receive
36 something of value in the event of a certain outcome. Gambling does not include bona fide
37 business transactions valid under the law of contracts, including but not limited to contracts for
38 the purchase or sale at a future date of securities or commodities, and agreements to compensate
39 for loss caused by the happening of chance, including but not limited to contracts of indemnity
40 or guaranty and life, health or accident insurance; nor does gambling include playing an
41 amusement device that confers only an immediate right of replay not exchangeable for something
42 of value. Gambling does not include any licensed activity, or persons participating in such
43 games which are covered by sections 313.800 to 313.840. **Gambling does not include**
44 **participating in a fantasy contest as defined in this section;**

45 [(5)] (6) "Gambling device", any device, machine, paraphernalia or equipment that is
46 used or usable in the playing phases of any gambling activity, whether that activity consists of
47 gambling between persons or gambling by a person with a machine. However, lottery tickets,
48 policy slips and other items used in the playing phases of lottery and policy schemes are not
49 gambling devices within this definition;

50 [(6)] (7) "Gambling record", any article, instrument, record, receipt, ticket, certificate,
51 token, slip or notation used or intended to be used in connection with unlawful gambling activity;

52 [(7)] (8) "Lottery" or "policy", an unlawful gambling scheme in which for a consideration
53 the participants are given an opportunity to win something of value, the award of which is
54 determined by chance;

55 [(8)] (9) "Player", a person who engages in any form of gambling solely as a contestant
56 or bettor, without receiving or becoming entitled to receive any profit therefrom other than
57 personal gambling winnings, and without otherwise rendering any material assistance to the
58 establishment, conduct or operation of the particular gambling activity. A person who gambles
59 at a social game of chance on equal terms with the other participants therein does not otherwise
60 render material assistance to the establishment, conduct or operation thereof by performing,
61 without fee or remuneration, acts directed toward the arrangement or facilitation of the game,
62 such as inviting persons to play, permitting the use of premises therefor and supplying cards or
63 other equipment used therein. A person who engages in "bookmaking" as defined in subdivision
64 (2) of this section is not a player;

65 [(9)] (10) "Professional player", a player who engages in gambling for a livelihood or
66 who has derived at least twenty percent of his or her income in any one year within the past five
67 years from acting solely as a player;

68 [(10)] (11) "Profit from gambling activity", a person profits from gambling activity if,
69 other than as a player, he or she accepts or receives money or other property pursuant to an
70 agreement or understanding with any person whereby he participates or is to participate in the
71 proceeds of gambling activity;

72 [(11)] (12) "Slot machine", a gambling device that as a result of the insertion of a coin
73 or other object operates, either completely automatically or with the aid of some physical act by
74 the player, in such a manner that, depending upon elements of chance, it may eject something
75 of value. A device so constructed or readily adaptable or convertible to such use is no less a slot
76 machine because it is not in working order or because some mechanical act of manipulation or
77 repair is required to accomplish its adaptation, conversion or workability. Nor is it any less a slot
78 machine because apart from its use or adaptability as such it may also sell or deliver something
79 of value on a basis other than chance;

80 [(12)] (13) "Something of value", any money or property, any token, object or article
81 exchangeable for money or property, or any form of credit or promise directly or indirectly
82 contemplating transfer of money or property or of any interest therein or involving extension of
83 a service, entertainment or a privilege of playing at a game or scheme without charge;

84 [(13)] (14) "Unlawful", not specifically authorized by law.

572.010. As used in this chapter:

2 (1) "Advance gambling activity", a person "advances gambling activity" if, acting other
3 than as a player, he engages in conduct that materially aids any form of gambling activity.
4 Conduct of this nature includes but is not limited to conduct directed toward the creation or
5 establishment of the particular game, lottery, contest, scheme, device or activity involved, toward
6 the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor,
7 toward the solicitation or inducement of persons to participate therein, toward the actual conduct
8 of the playing phases thereof, toward the arrangement or communication of any of its financial
9 or recording phases, or toward any other phase of its operation. A person advances gambling
10 activity if, having substantial proprietary control or other authoritative control over premises
11 being used with his knowledge for purposes of gambling activity, he permits that activity to
12 occur or continue or makes no effort to prevent its occurrence or continuation. The supplying,
13 servicing and operation of a licensed excursion gambling boat under sections 313.800 to 313.840
14 does not constitute advancing gambling activity. **The offering and operating of a fantasy
15 contest as defined in this section does not constitute advance gambling activity;**

16 (2) "Bookmaking", means advancing gambling activity by unlawfully accepting bets
17 from members of the public as a business, rather than in a casual or personal fashion, upon the
18 outcomes of future contingent events;

19 (3) "Contest of chance" means any contest, game, gaming scheme or gaming device in
20 which the outcome depends in a material degree upon an element of chance, notwithstanding that
21 the skill of the contestants may also be a factor therein;

22 (4) **"Fantasy contest", any fantasy or simulated game or contest, which may include
23 payment of an entry fee, in which:**

24 (a) **Winning participants are eligible to receive cash or anything else of value;**

25 (b) **The value of all prizes and awards offered to winning participants are
26 established and made known to the participants in advance of the contest;**

27 (c) **All winning outcomes reflect the relative knowledge and skill of the participants
28 and shall be determined predominantly by accumulated statistical results of the
29 performance of individuals, including athletes in the case of sports events; and**

30 (d) **No winning outcome is based on the score, point spread, or any performance
31 or performances of any single actual team or combination of such teams or solely on any
32 single performance of an individual athlete or player in any single actual event;**

33 (5) "Gambling", a person engages in "gambling" when he stakes or risks something of
34 value upon the outcome of a contest of chance or a future contingent event not under his control
35 or influence, upon an agreement or understanding that he will receive something of value in the
36 event of a certain outcome. Gambling does not include bona fide business transactions valid
37 under the law of contracts, including but not limited to contracts for the purchase or sale at a

38 future date of securities or commodities, and agreements to compensate for loss caused by the
39 happening of chance, including but not limited to contracts of indemnity or guaranty and life,
40 health or accident insurance; nor does gambling include playing an amusement device that
41 confers only an immediate right of replay not exchangeable for something of value. Gambling
42 does not include any licensed activity, or persons participating in such games which are covered
43 by sections 313.800 to 313.840. **Gambling does not include participating in a fantasy contest**
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45 [(5)] (6) "Gambling device" means any device, machine, paraphernalia or equipment that
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47 of gambling between persons or gambling by a person with a machine. However, lottery tickets,
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51 certificate, token, slip or notation used or intended to be used in connection with unlawful
52 gambling activity;

53 [(7)] (8) "Lottery" or "policy" means an unlawful gambling scheme in which for a
54 consideration the participants are given an opportunity to win something of value, the award of
55 which is determined by chance;

56 [(8)] (9) "Player" means a person who engages in any form of gambling solely as a
57 contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other
58 than personal gambling winnings, and without otherwise rendering any material assistance to the
59 establishment, conduct or operation of the particular gambling activity. A person who gambles
60 at a social game of chance on equal terms with the other participants therein does not otherwise
61 render material assistance to the establishment, conduct or operation thereof by performing,
62 without fee or remuneration, acts directed toward the arrangement or facilitation of the game,
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67 or who has derived at least twenty percent of his income in any one year within the past five
68 years from acting solely as a player;

69 [(10)] (11) "Profit from gambling activity", a person "profits from gambling activity" if,
70 other than as a player, he accepts or receives money or other property pursuant to an agreement
71 or understanding with any person whereby he participates or is to participate in the proceeds of
72 gambling activity;

73 [(11)] (12) "Slot machine" means a gambling device that as a result of the insertion of
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78 manipulation or repair is required to accomplish its adaptation, conversion or workability. Nor
79 is it any less a slot machine because apart from its use or adaptability as such it may also sell or
80 deliver something of value on a basis other than chance;

81 [(12)] (13) "Something of value" means any money or property, any token, object or
82 article exchangeable for money or property, or any form of credit or promise directly or indirectly
83 contemplating transfer of money or property or of any interest therein or involving extension of
84 a service, entertainment or a privilege of playing at a game or scheme without charge;

85 [(13)] (14) "Unlawful" means not specifically authorized by law.

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