

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 691

93RD GENERAL ASSEMBLY

Reported from the Committee on Rules April 6, 2005 with recommendation that House Committee Substitute for House Bill No. 691 Do Pass with no time limit for debate.

Taken up for Perfection April 19, 2005. House Committee Substitute for House Bill No. 691 ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

1926L.02P

AN ACT

To repeal sections 572.010, 572.070, and 572.125, RSMo, and to enact in lieu thereof three new sections relating to gambling devices, with penalty provisions.

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

Section A. Sections 572.010, 572.070, and 572.125, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 572.010, 572.070, and 572.125, to read
3 as follows:

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] **such person** engages in conduct that materially aids any form of gambling
4 activity. Conduct of this nature includes but is not limited to conduct directed toward the
5 creation or establishment of the particular game, lottery, contest, scheme, device or activity
6 involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or
7 apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward
8 the actual conduct of the playing phases thereof, toward the arrangement or communication of
9 any of its financial or recording phases, or toward any other phase of its operation. A person
10 advances gambling activity if, having substantial proprietary control or other authoritative
11 control over premises being used with [his] **such person's** knowledge for purposes of gambling

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.

12 activity, [he] **such person** permits that activity to occur or continue or makes no effort to prevent
13 its occurrence or continuation. The supplying, servicing and operation of a licensed excursion
14 gambling boat under sections 313.800 to 313.840, RSMo, does not constitute advancing
15 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) "Gambling", a person engages in "gambling" when [he] **such person** stakes or risks
23 something of value upon the outcome of a contest of chance or a future contingent event not
24 under [his] **such person's** control or influence, upon an agreement or understanding that [he]
25 **such person** will receive something of value in the event of a certain outcome. Gambling does
26 not include bona fide business transactions valid under the law of contracts, including but not
27 limited to contracts for the purchase or sale at a future date of securities or commodities, and
28 agreements to compensate for loss caused by the happening of chance, including but not limited
29 to contracts of indemnity or guaranty and life, health or accident insurance; nor does gambling
30 include playing an amusement device that confers only an immediate right of replay [not
31 exchangeable] **or a coupon credit that may be redeemed on the premises** for something of
32 value **that does not exceed five dollars per play, except for cash, intoxicating liquor,**
33 **intoxicating beer, or tobacco products.** Gambling does not include any licensed activity, or
34 persons participating in such games which are covered by sections 313.800 to 313.840, RSMo,
35 **however, gambling does include the playing of slot machines at truck stops;**

36 (5) "Gambling device" means any device, machine, paraphernalia or equipment that is
37 used or usable in the playing phases of any gambling activity, whether that activity consists of
38 gambling between persons or gambling by a person with a machine. However, lottery tickets,
39 policy slips and other items used in the playing phases of lottery and policy schemes are not
40 gambling devices within this definition. **The term "gambling device" shall not include an**
41 **amusement device that confers only an immediate right of replay or a coupon credit that**
42 **may be redeemed on the premises for something of value that does not exceed five dollars**
43 **per play, except for cash, intoxicating liquor, intoxicating beer, or tobacco products,**
44 **however, the term gambling device does include slot machines located at truck stops;**

45 (6) "Gambling record" means any article, instrument, record, receipt, ticket, certificate,
46 token, slip or notation used or intended to be used in connection with unlawful gambling activity;

47 (7) "Lottery" or "policy" means an unlawful gambling scheme in which for a
48 consideration the participants are given an opportunity to win something of value, the award of
49 which is determined by chance;

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

60 (9) "Professional player" means a player who engages in gambling for a livelihood or
61 who has derived at least twenty percent of his income in any one year within the past five years
62 from acting solely as a player;

63 (10) "Profit from gambling activity", a person "profits from gambling activity" if, other
64 than as a player, [he] **such person** accepts or receives money or other property pursuant to an
65 agreement or understanding with any person whereby [he] **such person** participates or is to
66 participate in the proceeds of gambling activity;

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

75 (12) "Something of value" means any money or property, any token, object or article
76 exchangeable for money or property, or any form of credit or promise directly or indirectly
77 contemplating transfer of money or property or of any interest therein or involving extension of
78 a service, entertainment or a privilege of playing at a game or scheme without charge;

79 (13) "Unlawful" means not specifically authorized by law.

572.070. 1. A person commits the crime of possession of a gambling device if, with
2 knowledge of the character thereof, he manufactures, sells, transports, places or possesses, or

3 conducts or negotiates any transaction affecting or designed to affect ownership, custody or use
4 of:

5 (1) A slot machine **other than a slot machine sold, purchased, or otherwise acquired**
6 **pursuant to section 572.125;** or

7 (2) Any other gambling device, knowing or having reason to believe that it is to be used
8 in the state of Missouri in the advancement of unlawful gambling activity.

9 2. Possession of a gambling device is a class A misdemeanor.

572.125. 1. It shall be [an affirmative defense to any prosecution under this chapter
2 relating to slot machines, if the defendant shows that the slot machine is an antique slot machine
3 and was not operated for gambling purposes while in the defendant's possession. For the
4 purposes of this section, an antique slot machine is one which is over thirty years] **lawful for any**
5 **person to sell or purchase or otherwise acquire any slot machine for operation at the**
6 **residence of the owner, if such slot machine is not operated for gambling purposes. Such**
7 **ownership or operation of a slot machine shall not be the basis for prosecution for any**
8 **gambling offense under this chapter.**

9 2. Notwithstanding section 572.120, [whenever the defense provided by subsection 1 of
10 this section is offered,] no slot machine seized from any defendant shall be destroyed or
11 otherwise altered until after a final court determination that such [defense is not applicable. If
12 the defense is applicable, any such slot machine shall be returned pursuant to provisions of law
13 providing for the return of property] **machine was operated for gambling purposes.**