

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2022 REGULAR SESSION
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Amend printed copy of **HB 608/GA**

On page 1, line 3, to page 6, line 4, delete Section 1 in its entirety and insert the following in lieu thereof:

"➔Section 1. KRS 528.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) **(a)** "Advancing gambling activity" means ~~— A person "advances gambling activity" when, acting other than as a player, he engages in~~ conduct **a person engages in other than as a player** that materially aids any form of gambling activity.

(b) **"Advancing gambling activity" includes** ~~[The conduct shall include, but is not limited to,]~~ conduct directed toward the:

- 1.** Establishment of the particular game, contest, scheme, device, or activity involved; ~~[toward the]~~
- 2.** Acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; ~~[toward the]~~
- 3.** Solicitation or inducement of persons to participate therein; ~~[toward the]~~
- 4.** Actual conduct of the playing phases thereof; ~~or [toward the]~~
- 5.** Arrangement of any of its financial or recording phases or toward any other phase of its operation.

(c) A person who gambles at a social game of chance on equal terms with other

Amendment No. SFA

Rep. Sen. Whitney Westerfield

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor, and supplying equipment used therein;

- (2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business;
- (3) "Charitable gaming" means games of chance conducted by charitable organizations licensed and regulated under the provisions of KRS Chapter 238;
- (4) (a) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill shall not be considered to be gambling. "Gambling" includes playing or offering for play any skill game.
- (b) Gambling shall not mean charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238;
- (5) (a) "Gambling device" means:
 1. (a) Any so-called slot machine or any other machine or mechanical device~~an~~ essential part of which is a drum or reel with insignia thereon, and] which when operated may deliver, as a result of the application of any~~an~~ element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of any~~an~~ element of chance, any money or property;

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~~2.(b)~~ Any mechanical or electronic device permanently located in a business establishment, including a private club, that is offered or made available to a person to play or participate in a simulated gambling program in return for direct or indirect consideration, including but not limited to consideration paid for Internet access or computer time, or a sweepstakes entry, which when operated may deliver as a result of the application of ~~any~~ element of chance, **regardless of whether the result is also partially or predominantly based on skill**, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of ~~any~~ element of chance, **regardless of whether the result is also partially or predominantly based on skill**, any money or property; ~~or~~

~~3.(c)~~ Any other machine or any mechanical or other device, including but not limited to roulette wheels, gambling tables, and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of ~~any~~ element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of ~~any~~ element of chance, any money or property; **or**

4. A skill game.

~~(b)(d)~~ ~~But,~~ The following shall not be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks;
2. Devices dispensing or selling combination or French pools on historical races at

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licensed, regular racetracks as lawfully authorized by the Kentucky Horse Racing Commission;

3. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise;~~[-or]~~
4. Devices used in the conduct of charitable gaming; **or**
5. **Devices used in eSports competitions. For purposes of this subparagraph, "eSports competition" means a competition involving video games, including first-person shooters, real-time strategy games, and multiplayer online battle arenas in which:**

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a. *Players compete against each other; and*

b. *The dominant element determining the results is the relative skill of the players;*

(6) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and
2. The ultimate winner is to be determined by a drawing or by some other method based upon the element of chance; and
3. The holders of the winning chances are to receive something of value; and

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter;

(7) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme;

(8) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter;

(9) "Profiting from gambling activity" means ~~{— A person "profits from gambling activity"—}~~

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when, other than as a player, the person~~[he]~~ accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any other person whereby the person~~[he]~~ participates or is to participate in the proceeds of gambling activity;

(10) "Simulated gambling program" means any method intended to be used by a person playing, participating, or interacting with an electronic device that may, through the application of any~~[an]~~ element of chance, either deliver money or property or an entitlement to receive money or property;~~[and]~~

(11) "Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person;

(12) (a) "Skill game" means an electronic, computerized, mechanical contrivance, terminal, machine, or other device that requires the direct or indirect payment of consideration.

1. A skill game includes and shall not be limited to the insertion of a coin, currency, ticket, token, or similar object, or by depositing funds with the operator or owner of the device, to operate, play, or activate a game.

2. The outcome of a skill game shall be determined by any element of skill of the player. Whether the payoff is made automatically from the device or manually, the outcome may deliver or entitle the person playing or operating the device to receive:

a. Cash;

b. Cash equivalents;

c. Gift cards; or

d. Vouchers, tickets, tokens, or electronic credits to be exchanged for cash

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or to receive merchandise or something of value.

(b) "Skill game" does not mean an electronic or mechanical device that entitles the person playing or operating the device to receive vouchers, tickets, tokens, or electronic credits to be exchanged for cash or merchandise with a fair market value of fifty dollars (\$50) or less; and

(13)~~*(11)*~~ "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge."