

**First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0630.01 Duane Gall x4335

**HOUSE BILL 15-1047**

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**HOUSE SPONSORSHIP**

**Lawrence and Becker K.,**

**SENATE SPONSORSHIP**

**Grantham and Neville T.,**

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**House Committees**  
Business Affairs and Labor

**Senate Committees**  
Finance

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**A BILL FOR AN ACT**

101 **CONCERNING A PROHIBITION ON THE USE OF SIMULATED GAMBLING**  
102 **DEVICES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill declares that internet sweepstakes cafés and similar establishments in which simulated gambling devices are used to award prizes to customers do not comply with existing constitutional and statutory requirements for the conduct of licensed gambling activity in Colorado and, therefore, the operation of these businesses is contrary to public policy.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
February 6, 2015

HOUSE  
Amended 2nd Reading  
February 5, 2015

The bill creates a new misdemeanor criminal offense of offering or providing the use of a simulated gambling device in exchange for any type of consideration, whether the consideration is technically classified as the price of using the device, the price of admission to premises on which the device is located, or the purchase price for an associated product or service.

A violation is punishable as a class 3 misdemeanor or by civil penalties and remedies including private damages of up to 3 times the losses suffered by an individual or licensed competitor, injunctions, and attorney fees. Internet service providers and others who only supply equipment, web design, or connectivity to an internet sweepstakes café are exempt unless their primary purpose is to support the conduct of gambling as a business.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 10.5 to  
3 title 18 as follows:

4 **ARTICLE 10.5**

5 **Simulated Gambling Devices**

6 **18-10.5-101. Legislative declaration.** (1) THE GENERAL  
7 ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

8 (a) RECENTLY, CERTAIN INDIVIDUALS AND COMPANIES HAVE  
9 DEVELOPED ELECTRONIC MACHINES, SYSTEMS, AND DEVICES TO ENABLE  
10 GAMBLING THROUGH PRETEXTUAL SWEEPSTAKES RELATIONSHIPS  
11 PREDICATED ON THE SALE OF INTERNET SERVICES, TELEPHONE CARDS, AND  
12 OTHER PRODUCTS AT BUSINESS LOCATIONS THAT ARE OR MAY BE  
13 COMMONLY KNOWN AS INTERNET SWEEPSTAKES CAFÉS. THESE MACHINES,  
14 SYSTEMS, AND DEVICES, AS MORE FULLY DESCRIBED IN THIS ARTICLE,  
15 APPEAR DESIGNED TO EVADE THE EXISTING CONSTITUTIONAL AND  
16 STATUTORY REGULATIONS ON GAMBLING ACTIVITY IN COLORADO AND  
17 THEREFORE ARE DECLARED TO BE CONTRARY TO THE PUBLIC POLICY OF  
18 THIS STATE.

1 (b) THE GAMBLING OCCURRING AT INTERNET SWEEPSTAKES CAFÉS  
2 HAS NONE OF THE PROTECTIONS THAT ARE AFFORDED TO PLAYERS AT  
3 LEGAL GAMING SITES IN COLORADO. THIS ABSENCE OF UNIFORM  
4 REGULATION AND ONGOING, GOVERNMENTAL OVERSIGHT PRESENTS A  
5 DANGER TO CONSUMERS THROUGHOUT THE STATE OF COLORADO. THESE  
6 SITES COMPLY WITH NONE OF THE REGULATORY REQUIREMENTS, SUCH AS  
7 SURVEILLANCE AND TRACKING OF WAGERS AND PAYOUTS, TO ASSURE  
8 CONSUMERS THAT GAMBLING IS BEING CONDUCTED FAIRLY AND  
9 HONESTLY. THE GENERAL ASSEMBLY FINDS THAT THESE DANGERS ARE  
10 PROFOUND, PUTTING AT RISK THE FINANCIAL RESOURCES OF VULNERABLE  
11 PERSONS AND CUSTOMERS WHO ARE USED TO WAGERING BASED ON CLEAR  
12 REGULATORY STANDARDS AND WHO HAVE OFFICIAL LINES OF AUTHORITY  
13 TO WHICH THEY MAY APPEAL WHEN THERE ARE QUESTIONABLE OR  
14 ILLEGAL PRACTICES USED BY A LICENSED GAMING OPERATOR.

15 (c) THE PROLIFERATION OF INTERNET SWEEPSTAKES CAFÉS  
16 PRESENTS AN INCREASING RISK TO CONSUMERS, PARTICULARLY AS THESE  
17 SWEEPSTAKES CAFÉS HAVE SPREAD TO SITES THROUGHOUT THE STATE AND  
18 ARE CAPABLE OF OPERATING WITHOUT FACING ADVERSE CONSEQUENCES  
19 FOR THEIR ILLEGAL, UNFAIR, OR UNREGULATED ACTS;

20 (d) THE DIVERSION OF CONSUMER DOLLARS TO THESE UNTAXED  
21 GAMBLING ACTIVITIES NOT ONLY PRESENTS THE OPPORTUNITY FOR THEFT  
22 BUT ALSO UNDERMINES STATE AND LOCAL PROGRAMS THAT ARE FUNDED  
23 BY REVENUE DERIVED FROM LEGALIZED GAMBLING, INCLUDING PARKS  
24 AND RECREATION, HISTORIC PRESERVATION, AND THE STATE'S GENERAL  
25 FUND;

26 (e) THERE IS NO ADEQUATE LOCAL OR FEDERAL REGULATION OF  
27 INTERNET SWEEPSTAKES CAFÉS, AND THE ABILITY OF THE OWNERS OF

1 THOSE FACILITIES TO OPERATE IN ANY COMMUNITY IN THE STATE OR TO  
2 MOVE THEIR OPERATIONS FROM ONE PART OF THE STATE TO ANOTHER  
3 WITHOUT NOTIFYING ANY REGULATORY BODY MAKES THIS AN ISSUE OF  
4 STATEWIDE CONCERN, APPROPRIATE FOR ACTION BY THE GENERAL  
5 ASSEMBLY;

6 (f) THE VOTERS OF COLORADO HAVE CAREFULLY CHOSEN THE  
7 FORMS OF GAMBLING TO WHICH TO GIVE THEIR APPROVAL AND THE  
8 CONDITIONS UNDER WHICH THOSE FORMS OF GAMBLING MAY BE  
9 CONDUCTED. AT NO TIME HAS THE QUESTION OF LEGALIZATION OF  
10 INTERNET SWEEPSTAKES CAFÉS BEEN PRESENTED TO THE VOTERS OF THIS  
11 STATE. WITHOUT A VOTE OF THE PEOPLE, THE STATE OF COLORADO  
12 CANNOT PERMIT THE OPERATION OF UNAUTHORIZED, UNREGULATED, AND  
13 UNSUPERVISED GAMBLING OR LOTTERIES IN VIOLATION OF SECTION 2 OR  
14 9 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

15 **18-10.5-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
16 CONTEXT OTHERWISE REQUIRES:

17 (1) "ELECTRONIC GAMING MACHINE" MEANS AN ELECTRICALLY OR  
18 ELECTRONICALLY OPERATED MACHINE OR DEVICE THAT IS USED BY A  
19 SWEEPSTAKES ENTRANT AND THAT DISPLAYS THE RESULTS OF A GAME  
20 ENTRY OR GAME OUTCOME TO A PARTICIPANT ON A SCREEN OR OTHER  
21 MECHANISM AT A BUSINESS LOCATION, INCLUDING A PRIVATE CLUB, THAT  
22 IS OWNED, LEASED, OR OTHERWISE POSSESSED, IN WHOLE OR IN PART, BY  
23 A PERSON CONDUCTING THE SWEEPSTAKES OR BY THAT PERSON'S  
24 PARTNERS, AFFILIATES, SUBSIDIARIES, AGENTS, OR CONTRACTORS. THE  
25 TERM INCLUDES A MACHINE OR DEVICE THAT:

26 (a) USES A SIMULATED GAME TERMINAL AS A REPRESENTATION OF  
27 THE PRIZES ASSOCIATED WITH THE RESULTS OF THE SWEEPSTAKES

- 1 ENTRIES;
- 2 (b) USES SOFTWARE THAT SIMULATES A GAME THAT INFLUENCES  
3 OR DETERMINES THE WINNING OR VALUE OF THE PRIZE, OR APPEARS TO  
4 INFLUENCE OR DETERMINE THE WINNING OR VALUE OF THE PRIZE;
- 5 (c) SELECTS PRIZES FROM A PREDETERMINED, FINITE POOL OF  
6 ENTRIES;
- 7 (d) USES A MECHANISM THAT REVEALS THE CONTENT OF A  
8 PREDETERMINED SWEEPSTAKES ENTRY;
- 9 (e) PREDETERMINES THE PRIZE RESULTS AND STORES THOSE  
10 RESULTS FOR DELIVERY WHEN THE SWEEPSTAKES ENTRY IS REVEALED;
- 11 (f) USES SOFTWARE TO CREATE A GAME RESULT;
- 12 (g) REQUIRES A DEPOSIT OF ANY CURRENCY OR TOKEN OR THE USE  
13 OF ANY CREDIT CARD, DEBIT CARD, PREPAID CARD, OR OTHER METHOD OF  
14 PAYMENT TO ACTIVATE THE MACHINE OR DEVICE;
- 15 (h) REQUIRES DIRECT PAYMENT INTO THE MACHINE OR DEVICE OR  
16 REMOTE ACTIVATION OF THE MACHINE OR DEVICE UPON PAYMENT TO THE  
17 PERSON OFFERING THE SWEEPSTAKES GAME;
- 18 (i) REQUIRES THE PURCHASE OF A RELATED PRODUCT AT  
19 ADDITIONAL COST IN ORDER TO PARTICIPATE IN THE SWEEPSTAKES GAME  
20 OR MAKES A RELATED PRODUCT AVAILABLE FOR NO COST BUT UNDER  
21 RESTRICTIVE CONDITIONS;
- 22 (j) REVEALS A SWEEPSTAKES PRIZE INCREMENTALLY EVEN  
23 THOUGH THE PROGRESS OF THE IMAGES ON THE SCREEN DOES NOT  
24 INFLUENCE WHETHER A PRIZE IS AWARDED OR THE VALUE OF ANY PRIZE  
25 AWARDED; OR
- 26 (k) DETERMINES AND ASSOCIATES THE PRIZE WITH AN ENTRY OR  
27 ENTRIES AT THE TIME THE SWEEPSTAKES IS ENTERED.

1           (2) "ENTER" OR "ENTRY" MEANS THE ACT OR PROCESS BY WHICH  
2 A PERSON BECOMES ELIGIBLE TO RECEIVE A PRIZE OFFERED IN A  
3 SWEEPSTAKES.

4           (3) "ENTRANT" MEANS A PERSON WHO IS OR SEEKS TO BECOME  
5 ELIGIBLE TO RECEIVE A PRIZE OFFERED IN A SWEEPSTAKES.

6           (4) "LOCAL JURISDICTION" MEANS A TOWN, CITY, CITY AND  
7 COUNTY, OR THE UNINCORPORATED AREA OF A COUNTY.

8           (5) "PRIZE" MEANS A GIFT, AWARD, GRATUITY, GOOD, SERVICE,  
9 CREDIT, OR ANYTHING ELSE OF VALUE THAT MAY BE TRANSFERRED TO A  
10 PERSON, WHETHER OR NOT POSSESSION OF THE PRIZE IS ACTUALLY  
11 TRANSFERRED OR PLACED ON AN ACCOUNT OR OTHER RECORD AS  
12 EVIDENCE OF THE INTENT TO TRANSFER THE PRIZE. "PRIZE" DOES NOT  
13 INCLUDE FREE OR ADDITIONAL PLAY OR ANY INTANGIBLE OR VIRTUAL  
14 AWARD THAT CANNOT BE CONVERTED INTO MONEY, GOODS, OR SERVICES.

15           (6) "SIMULATED GAMBLING DEVICE" MEANS A MECHANICALLY OR  
16 ELECTRONICALLY OPERATED MACHINE, NETWORK, SYSTEM, PROGRAM, OR  
17 DEVICE THAT IS USED BY AN ENTRANT AND THAT DISPLAYS SIMULATED  
18 GAMBLING DISPLAYS ON A SCREEN OR OTHER MECHANISM AT A BUSINESS  
19 LOCATION, INCLUDING A PRIVATE CLUB, THAT IS OWNED, LEASED, OR  
20 OTHERWISE POSSESSED, IN WHOLE OR IN PART, BY A PERSON CONDUCTING  
21 THE GAME OR BY THAT PERSON'S PARTNERS, AFFILIATES, SUBSIDIARIES,  
22 AGENTS, OR CONTRACTORS. THE TERM INCLUDES:

23           (a) A VIDEO POKER GAME OR ANY OTHER KIND OF VIDEO CARD  
24 GAME;

25           (b) A VIDEO BINGO GAME;

26           (c) A VIDEO CRAPS GAME;

27           (d) A VIDEO KENO GAME;

- 1 (e) A VIDEO LOTTO GAME;
- 2 (f) A VIDEO ROULETTE GAME;
- 3 (g) A POT-OF-GOLD;
- 4 (h) AN EIGHT-LINER;
- 5 (i) A VIDEO GAME BASED ON OR INVOLVING THE RANDOM OR
- 6 CHANCE MATCHING OF DIFFERENT PICTURES, WORDS, NUMBERS, OR
- 7 SYMBOLS;
- 8 (j) AN ELECTRONIC GAMING MACHINE, INCLUDING A PERSONAL
- 9 COMPUTER OF ANY SIZE OR CONFIGURATION THAT PERFORMS ANY OF THE
- 10 FUNCTIONS OF AN ELECTRONIC GAMING MACHINE;
- 11 (k) A SLOT MACHINE; AND
- 12 (l) A DEVICE THAT FUNCTIONS AS, OR SIMULATES THE PLAY OF, A
- 13 SLOT MACHINE.

14 (7) "SWEEPSTAKES" MEANS ANY GAME, ADVERTISING SCHEME OR  
15 PLAN, OR OTHER PROMOTION THAT, WITH OR WITHOUT PAYMENT OF ANY  
16 CONSIDERATION, ALLOWS A PERSON TO ENTER TO WIN OR BECOME  
17 ELIGIBLE TO RECEIVE A PRIZE.

18 **18-10.5-103. Prohibition - penalties - exemptions.** (1) A  
19 PERSON COMMITS UNLAWFUL OFFERING OF A SIMULATED GAMBLING  
20 DEVICE IF THE PERSON OFFERS, FACILITATES, CONTRACTS FOR, OR  
21 OTHERWISE MAKES AVAILABLE TO OR FOR MEMBERS OF THE PUBLIC OR  
22 MEMBERS OF AN ORGANIZATION OR CLUB ANY SIMULATED GAMBLING  
23 DEVICE WHERE:

- 24 (a) THE PAYMENT OF CONSIDERATION IS REQUIRED OR PERMITTED
- 25 FOR USE OF THE DEVICE, FOR ADMISSION TO PREMISES ON WHICH THE
- 26 DEVICE IS LOCATED, OR FOR THE PURCHASE OF ANY PRODUCT OR SERVICE
- 27 ASSOCIATED WITH ACCESS TO OR USE OF THE DEVICE; AND

1 (b) AS A CONSEQUENCE OF, IN CONNECTION WITH, OR AFTER THE  
2 PLAY OF THE SIMULATED GAMBLING DEVICE, AN AWARD OF A PRIZE IS  
3 EXPRESSLY OR IMPLICITLY MADE TO A PERSON USING THE DEVICE.

4 (2) UNLAWFUL OFFERING OF A SIMULATED GAMBLING DEVICE IS  
5 A CLASS 3 MISDEMEANOR.

6 (3) WITHOUT REGARD TO ANY PENALTY IMPOSED UNDER  
7 SUBSECTION (2) OF THIS SECTION, THE ATTORNEY GENERAL AND EACH  
8 DISTRICT ATTORNEY MAY APPLY TO THE DISTRICT COURT OF A DISTRICT IN  
9 WHICH A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION IS  
10 LOCATED, ADVERTISES FOR ENTRANTS, OR DOES BUSINESS FOR  
11 APPROPRIATE ADDITIONAL RELIEF, INCLUDING:

12 (a) INJUNCTIVE RELIEF, INCLUDING A TEMPORARY RESTRAINING  
13 ORDER OR PRELIMINARY OR PERMANENT INJUNCTION, TO RESTRAIN AND  
14 ENJOIN VIOLATIONS OF THIS SECTION;

15 (b) DAMAGES, UP TO AND INCLUDING THREE TIMES THE TOTAL  
16 DOLLAR AMOUNT OF BUSINESS TRANSACTED OR FACILITATED BY ANY  
17 PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION, PAYABLE TO THE  
18 LOCAL JURISDICTION IN WHICH THE PERSON IS LOCATED, ADVERTISES FOR  
19 ENTRANTS, OR DOES BUSINESS; AND

20 (c) OTHER RELIEF THE DISTRICT COURT DEEMS APPROPRIATE.

21 (4) A PERSON WHO SUFFERS ANY ASCERTAINABLE LOSS OF MONEY  
22 OR OF ANY TANGIBLE OR INTANGIBLE PERSONAL PROPERTY AS A RESULT  
23 OF A VIOLATION OF THIS SECTION AND WHO ALSO HOLDS A LICENSE TO  
24 OFFER GAMBLING SERVICES UNDER COLORADO LAW MAY APPLY TO THE  
25 DISTRICT COURT OF ANY DISTRICT WHERE THE PERSON WHO VIOLATES  
26 SUBSECTION (1) OF THIS SECTION IS OR WAS LOCATED, ADVERTISES FOR  
27 ENTRANTS, OR DOES BUSINESS FOR APPROPRIATE ADDITIONAL RELIEF,

1 INCLUDING:

2 (a) INJUNCTIVE RELIEF, INCLUDING A TEMPORARY RESTRAINING  
3 ORDER OR PRELIMINARY OR PERMANENT INJUNCTION, TO RESTRAIN AND  
4 ENJOIN VIOLATIONS OF THIS SECTION;

5 (b) DAMAGES UP TO AND INCLUDING THREE TIMES THE ACTUAL  
6 DAMAGES SUSTAINED AS A RESULT OF VIOLATIONS OF THIS SECTION;

7 (c) REASONABLE ATTORNEY FEES AND COSTS; AND

8 (d) OTHER RELIEF THE DISTRICT COURT DEEMS APPROPRIATE.

9 (5) THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND  
10 COSTS TO A DEFENDANT FOR ANY ACTION FILED PURSUANT TO SUBSECTION  
11 (4) OF THIS SECTION THAT WAS SUBSTANTIALLY GROUNDLESS, FRIVOLOUS,  
12 OR VEXATIOUS.

13 (6) A CRIMINAL CONVICTION AGAINST A NAMED DEFENDANT  
14 UNDER SUBSECTION (2) OF THIS SECTION IS PRIMA FACIE EVIDENCE OF THE  
15 LIABILITY OF THAT NAMED DEFENDANT IN AN ACTION BROUGHT UNDER  
16 SUBSECTION (3) OR (4) OF THIS SECTION.

17 (7) A CIVIL ACTION UNDER THIS SECTION MUST BE FILED WITHIN  
18 ONE YEAR AFTER THE ACT OR TRANSACTION GIVING RISE TO THE CAUSE OF  
19 ACTION.

20 (8) CONDUCTING OR ASSISTING IN THE CONDUCT OF GAMING  
21 WAGERING ACTIVITIES AND LIVE OR SIMULCAST RACING AND PARIMUTUEL  
22 WAGERING ACTIVITIES OTHERWISE AUTHORIZED BY COLORADO LAW IS  
23 NOT A VIOLATION OF THIS SECTION.

24 (9) NOTHING IN THIS SECTION:

25 (a) PROHIBITS, LIMITS, OR OTHERWISE AFFECTS ANY PURCHASE,  
26 SALE, EXCHANGE, OR OTHER TRANSACTION RELATED TO STOCKS, BONDS,  
27 FUTURES, OPTIONS, COMMODITIES, OR OTHER SIMILAR INSTRUMENTS OR

1 TRANSACTIONS OCCURRING ON A STOCK OR COMMODITIES EXCHANGE,  
2 BROKERAGE HOUSE, OR SIMILAR ENTITY; OR

3 (b) LIMITS OR ALTERS THE APPLICATION OF THE REQUIREMENTS  
4 FOR SWEEPSTAKES, CONTESTS, AND SIMILAR ACTIVITIES THAT ARE  
5 OTHERWISE ESTABLISHED UNDER THE LAWS OF THIS STATE.

6 (10) THE PROVISION OF INTERNET OR OTHER ON-LINE ACCESS,  
7 TRANSMISSION, ROUTING, STORAGE, OR OTHER COMMUNICATION-RELATED  
8 SERVICES OR WEB SITE DESIGN, DEVELOPMENT, STORAGE, MAINTENANCE,  
9 BILLING, ADVERTISING, HYPERTEXT LINKING, TRANSACTION PROCESSING,  
10 OR OTHER SITE-RELATED SERVICES BY A TELEPHONE COMPANY, INTERNET  
11 SERVICE PROVIDER, SOFTWARE DEVELOPER OR LICENSOR, OR OTHER  
12 PARTY PROVIDING SIMILAR SERVICES TO CUSTOMERS IN THE NORMAL  
13 COURSE OF ITS BUSINESS DOES NOT VIOLATE THIS SECTION EVEN IF THOSE  
14 CUSTOMERS USE THE SERVICES TO CONDUCT A PROHIBITED GAME,  
15 CONTEST, LOTTERY, OR OTHER ACTIVITY IN VIOLATION OF THIS ARTICLE;  
16 EXCEPT THAT THIS SUBSECTION (10) DOES NOT EXEMPT FROM CRIMINAL  
17 PROSECUTION OR CIVIL LIABILITY A SOFTWARE DEVELOPER, LICENSOR, OR  
18 OTHER PARTY WHOSE PRIMARY PURPOSE IN PROVIDING SUCH SERVICE IS  
19 TO SUPPORT THE OFFERING OF SIMULATED GAMBLING DEVICES.

20 **SECTION 2. Act subject to petition - effective date.** This act  
21 takes effect January 1, 2016; except that, if a referendum petition is filed  
22 pursuant to section 1 (3) of article V of the state constitution against this  
23 act or an item, section, or part of this act within the ninety-day period  
24 after final adjournment of the general assembly, then the act, item,  
25 section, or part will not take effect unless approved by the people at the  
26 general election to be held in November 2016 and, in such case, will take  
27 effect on the date of the official declaration of the vote thereon by the

1 governor.