



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB2686

by Rep. Scott Drury

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/28-1  
720 ILCS 5/28-2

from Ch. 38, par. 28-1  
from Ch. 38, par. 28-2

Amends the Criminal Code of 2012. Provides that a person also commits gambling when he or she knowingly establishes, maintains, operates, or offers an Internet site, smartphone application, or other similar electronic or digital media or communication technology that permits a person to play a game of chance or skill for money or other thing of value by means of the Internet, smartphone application, or other similar electronic or digital media or communication technology or to make a wager upon the result of any game, contest, political nomination, appointment, or election by means of the Internet, smartphone application, or other similar electronic or digital media or communication technology, or knowingly establishes, maintains, or operates a fantasy sports contest that permits a person to play the contest for money or other thing of value. This provision does not apply to season-long fantasy sports contests. Provides that a violation is a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense. Defines "fantasy sports contest", "season-long fantasy sports contest", and "smartphone".

LRB100 04228 SLF 14234 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing  
5 Sections 28-1 and 28-2 as follows:

6 (720 ILCS 5/28-1) (from Ch. 38, par. 28-1)

7 Sec. 28-1. Gambling.

8 (a) A person commits gambling when he or she:

9 (1) knowingly plays a game of chance or skill for money  
10 or other thing of value, unless excepted in subsection (b)  
11 of this Section;

12 (2) knowingly makes a wager upon the result of any  
13 game, contest, or any political nomination, appointment or  
14 election;

15 (3) knowingly operates, keeps, owns, uses, purchases,  
16 exhibits, rents, sells, bargains for the sale or lease of,  
17 manufactures or distributes any gambling device;

18 (4) contracts to have or give himself or herself or  
19 another the option to buy or sell, or contracts to buy or  
20 sell, at a future time, any grain or other commodity  
21 whatsoever, or any stock or security of any company, where  
22 it is at the time of making such contract intended by both  
23 parties thereto that the contract to buy or sell, or the

1 option, whenever exercised, or the contract resulting  
2 therefrom, shall be settled, not by the receipt or delivery  
3 of such property, but by the payment only of differences in  
4 prices thereof; however, the issuance, purchase, sale,  
5 exercise, endorsement or guarantee, by or through a person  
6 registered with the Secretary of State pursuant to Section  
7 8 of the Illinois Securities Law of 1953, or by or through  
8 a person exempt from such registration under said Section  
9 8, of a put, call, or other option to buy or sell  
10 securities which have been registered with the Secretary of  
11 State or which are exempt from such registration under  
12 Section 3 of the Illinois Securities Law of 1953 is not  
13 gambling within the meaning of this paragraph (4);

14 (5) knowingly owns or possesses any book, instrument or  
15 apparatus by means of which bets or wagers have been, or  
16 are, recorded or registered, or knowingly possesses any  
17 money which he has received in the course of a bet or  
18 wager;

19 (6) knowingly sells pools upon the result of any game  
20 or contest of skill or chance, political nomination,  
21 appointment or election;

22 (7) knowingly sets up or promotes any lottery or sells,  
23 offers to sell or transfers any ticket or share for any  
24 lottery;

25 (8) knowingly sets up or promotes any policy game or  
26 sells, offers to sell or knowingly possesses or transfers

1 any policy ticket, slip, record, document or other similar  
2 device;

3 (9) knowingly drafts, prints or publishes any lottery  
4 ticket or share, or any policy ticket, slip, record,  
5 document or similar device, except for such activity  
6 related to lotteries, bingo games and raffles authorized by  
7 and conducted in accordance with the laws of Illinois or  
8 any other state or foreign government;

9 (10) knowingly advertises any lottery or policy game,  
10 except for such activity related to lotteries, bingo games  
11 and raffles authorized by and conducted in accordance with  
12 the laws of Illinois or any other state;

13 (11) knowingly transmits information as to wagers,  
14 betting odds, or changes in betting odds by telephone,  
15 telegraph, radio, semaphore or similar means; or knowingly  
16 installs or maintains equipment for the transmission or  
17 receipt of such information; except that nothing in this  
18 subdivision (11) prohibits transmission or receipt of such  
19 information for use in news reporting of sporting events or  
20 contests; or

21 (12) knowingly establishes, maintains, ~~or~~ operates, or  
22 offers an Internet site, smartphone application, or other  
23 similar electronic or digital media or communication  
24 technology that permits a person to play a game of chance  
25 or skill for money or other thing of value by means of the  
26 Internet, smartphone application, or other similar

1       electronic or digital media or communication technology or  
2       to make a wager upon the result of any game, contest,  
3       political nomination, appointment, or election by means of  
4       the Internet, smartphone application, or other similar  
5       electronic or digital media or communication technology,  
6       or knowingly establishes, maintains, or operates a fantasy  
7       sports contest that permits a person to play the contest  
8       for money or other thing of value. This item (12) does not  
9       apply to activities referenced in items (6) and (6.1) of  
10      subsection (b) of this Section, or to season-long fantasy  
11      sports contests.

12      (b) Participants in any of the following activities shall  
13      not be convicted of gambling:

14           (1) Agreements to compensate for loss caused by the  
15           happening of chance including without limitation contracts  
16           of indemnity or guaranty and life or health or accident  
17           insurance.

18           (2) Offers of prizes, award or compensation to the  
19           actual contestants in any bona fide contest for the  
20           determination of skill, speed, strength or endurance or to  
21           the owners of animals or vehicles entered in such contest.  
22           For the purposes of this paragraph (2), "bona fide contest"  
23           does not include a fantasy sports contest.

24           (3) Pari-mutuel betting as authorized by the law of  
25           this State.

26           (4) Manufacture of gambling devices, including the

1 acquisition of essential parts therefor and the assembly  
2 thereof, for transportation in interstate or foreign  
3 commerce to any place outside this State when such  
4 transportation is not prohibited by any applicable Federal  
5 law; or the manufacture, distribution, or possession of  
6 video gaming terminals, as defined in the Video Gaming Act,  
7 by manufacturers, distributors, and terminal operators  
8 licensed to do so under the Video Gaming Act.

9 (5) The game commonly known as "bingo", when conducted  
10 in accordance with the Bingo License and Tax Act.

11 (6) Lotteries when conducted by the State of Illinois  
12 in accordance with the Illinois Lottery Law. This exemption  
13 includes any activity conducted by the Department of  
14 Revenue to sell lottery tickets pursuant to the provisions  
15 of the Illinois Lottery Law and its rules.

16 (6.1) The purchase of lottery tickets through the  
17 Internet for a lottery conducted by the State of Illinois  
18 under the program established in Section 7.12 of the  
19 Illinois Lottery Law.

20 (7) Possession of an antique slot machine that is  
21 neither used nor intended to be used in the operation or  
22 promotion of any unlawful gambling activity or enterprise.  
23 For the purpose of this subparagraph (b)(7), an antique  
24 slot machine is one manufactured 25 years ago or earlier.

25 (8) Raffles and poker runs when conducted in accordance  
26 with the Raffles and Poker Runs Act.

1           (9) Charitable games when conducted in accordance with  
2 the Charitable Games Act.

3           (10) Pull tabs and jar games when conducted under the  
4 Illinois Pull Tabs and Jar Games Act.

5           (11) Gambling games conducted on riverboats when  
6 authorized by the Riverboat Gambling Act.

7           (12) Video gaming terminal games at a licensed  
8 establishment, licensed truck stop establishment, licensed  
9 fraternal establishment, or licensed veterans  
10 establishment when conducted in accordance with the Video  
11 Gaming Act.

12           (13) Games of skill or chance where money or other  
13 things of value can be won but no payment or purchase is  
14 required to participate.

15           (14) Savings promotion raffles authorized under  
16 Section 5g of the Illinois Banking Act, Section 7008 of the  
17 Savings Bank Act, Section 42.7 of the Illinois Credit Union  
18 Act, Section 5136B of the National Bank Act (12 U.S.C.  
19 25a), or Section 4 of the Home Owners' Loan Act (12 U.S.C.  
20 1463).

21           (c) Sentence.

22           Gambling is a Class A misdemeanor. A second or subsequent  
23 conviction under subsections (a) (3) through (a) (12), is a Class  
24 4 felony.

25           (d) Circumstantial evidence.

26           In prosecutions under this Section circumstantial evidence

1 shall have the same validity and weight as in any criminal  
2 prosecution.

3 (Source: P.A. 98-644, eff. 6-10-14; 99-149, eff. 1-1-16.)

4 (720 ILCS 5/28-2) (from Ch. 38, par. 28-2)

5 Sec. 28-2. Definitions.

6 (a) A "gambling device" is any clock, tape machine, slot  
7 machine or other machines or device for the reception of money  
8 or other thing of value on chance or skill or upon the action  
9 of which money or other thing of value is staked, hazarded,  
10 bet, won or lost; or any mechanism, furniture, fixture,  
11 equipment or other device designed primarily for use in a  
12 gambling place. A "gambling device" does not include:

13 (1) A coin-in-the-slot operated mechanical device  
14 played for amusement which rewards the player with the  
15 right to replay such mechanical device, which device is so  
16 constructed or devised as to make such result of the  
17 operation thereof depend in part upon the skill of the  
18 player and which returns to the player thereof no money,  
19 property or right to receive money or property.

20 (2) Vending machines by which full and adequate return  
21 is made for the money invested and in which there is no  
22 element of chance or hazard.

23 (3) A crane game. For the purposes of this paragraph  
24 (3), a "crane game" is an amusement device involving skill,  
25 if it rewards the player exclusively with merchandise



1 contained within the amusement device proper and limited to  
2 toys, novelties and prizes other than currency, each having  
3 a wholesale value which is not more than \$25.

4 (4) A redemption machine. For the purposes of this  
5 paragraph (4), a "redemption machine" is a single-player or  
6 multi-player amusement device involving a game, the object  
7 of which is throwing, rolling, bowling, shooting, placing,  
8 or propelling a ball or other object that is either  
9 physical or computer generated on a display or with lights  
10 into, upon, or against a hole or other target that is  
11 either physical or computer generated on a display or with  
12 lights, or stopping, by physical, mechanical, or  
13 electronic means, a moving object that is either physical  
14 or computer generated on a display or with lights into,  
15 upon, or against a hole or other target that is either  
16 physical or computer generated on a display or with lights,  
17 provided that all of the following conditions are met:

18 (A) The outcome of the game is predominantly  
19 determined by the skill of the player.

20 (B) The award of the prize is based solely upon the  
21 player's achieving the object of the game or otherwise  
22 upon the player's score.

23 (C) Only merchandise prizes are awarded.

24 (D) The wholesale value of prizes awarded in lieu  
25 of tickets or tokens for single play of the device does  
26 not exceed \$25.

1           (E) The redemption value of tickets, tokens, and  
2           other representations of value, which may be  
3           accumulated by players to redeem prizes of greater  
4           value, for a single play of the device does not exceed  
5           \$25.

6           (5) Video gaming terminals at a licensed  
7           establishment, licensed truck stop establishment, licensed  
8           fraternal establishment, or licensed veterans  
9           establishment licensed in accordance with the Video Gaming  
10          Act.

11          (a-3) "Fantasy sports contest" means any game of chance or  
12          skill in which outcomes are determined predominantly by  
13          accumulated statistical results of the performance of  
14          individual athletes in real-world athletic competitions.

15          (a-5) "Internet" means an interactive computer service or  
16          system or an information service, system, or access software  
17          provider that provides or enables computer access by multiple  
18          users to a computer server, and includes, but is not limited  
19          to, an information service, system, or access software provider  
20          that provides access to a network system commonly known as the  
21          Internet, or any comparable system or service and also  
22          includes, but is not limited to, a World Wide Web page,  
23          newsgroup, message board, mailing list, or chat area on any  
24          interactive computer service or system or other online service.

25          (a-6) "Access" and "computer" have the meanings ascribed to  
26          them in Section 16D-2 of this Code.

1 (b) A "lottery" is any scheme or procedure whereby one or  
2 more prizes are distributed by chance among persons who have  
3 paid or promised consideration for a chance to win such prizes,  
4 whether such scheme or procedure is called a lottery, raffle,  
5 gift, sale or some other name, excluding savings promotion  
6 raffles authorized under Section 5g of the Illinois Banking  
7 Act, Section 7008 of the Savings Bank Act, Section 42.7 of the  
8 Illinois Credit Union Act, Section 5136B of the National Bank  
9 Act (12 U.S.C. 25a), or Section 4 of the Home Owners' Loan Act  
10 (12 U.S.C. 1463).

11 (c) A "policy game" is any scheme or procedure whereby a  
12 person promises or guarantees by any instrument, bill,  
13 certificate, writing, token or other device that any particular  
14 number, character, ticket or certificate shall in the event of  
15 any contingency in the nature of a lottery entitle the  
16 purchaser or holder to receive money, property or evidence of  
17 debt.

18 (d) "Season-long fantasy sports contest" means a fantasy  
19 sports contest offered by a fantasy sports contest operator  
20 that is conducted over an entire sports season in which the  
21 entry fee is paid before the start of the season and any money  
22 or other thing of value is paid after the conclusion of the  
23 season.

24 (e) "Smartphone" means a cellular telephone with an  
25 integrated computer and other features including an operating  
26 system, Internet browser, and the ability to run software

1 applications.

2 (Source: P.A. 98-31, eff. 6-24-13; 99-149, eff. 1-1-16.)