

CHAPTER 774

S.B. No. 522

AN ACT

relating to the definition of gambling device; providing an exclusion of contrivances that are designed for amusement purposes.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subdivision (3), Section 47.01, Penal Code, is amended to read as follows:

(3) "Gambling device" means any *electronic, electromechanical, or mechanical* contrivance *not excluded under Paragraph (B) of this subdivision* that for a consideration affords the player an opportunity to obtain anything of value, the award of which is determined *solely or partially* by chance, even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance. *Gambling device:*

(A) includes, but is not limited to, gambling device versions of bingo, keno, blackjack, lottery, roulette, video poker, or similar electronic, electromechanical, or mechanical games, or facsimiles thereof, which operate by chance or partially so, which as a result of the play or operation of the game award credits or free games, which record the number of free games or credits so awarded, and which also record the cancellation or removal of the free games or credits; and

(B) does not include any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties or representation of value redeemable for those items which have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less.

SECTION 2. Section 47.02, Penal Code, is amended by adding Subsection (e) to read as follows:

(e) It is a defense to prosecution under this section that a person played for something of value other than money using an electronic, electromechanical, or mechanical contrivance which is excluded from the definition of gambling device under Section 47.01(3)(B).

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 1, 1993: Yeas 30, Nays 0; the Senate concurred in House amendments on May 31, 1993, by a viva-voce vote; passed the House, with amendments, on May 26, 1993, by a non-record vote.

Approved June 17, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.