

CONSTITUTION OF THE STATE OF LOUISIANA OF 1974 [ANNOTATED]  
ARTICLE XII. GENERAL PROVISIONS

§ 6. Lotteries; Gaming, Gambling, or Wagering

Section 6. (A) Lotteries. The legislature may provide for the creation and operation of a state lottery and may create a special corporation for that purpose whose employees shall not be subject to state civil service. The net proceeds from the operation of the lottery shall be deposited in a special fund created in the state treasury entitled the Lottery Proceeds Fund. Amounts deposited in the fund shall not be appropriated for expenditure in the same calendar year in which they are received. The legislature may appropriate from the fund for any purpose.

A law providing for the creation and operation of a state lottery, once enacted, may be modified only by a law enacted by two-thirds of the elected members of each house but may be repealed in its entirety by a law enacted by a majority thereof. If such a law has been repealed, the legislature thereafter may provide for the creation and operation of a state lottery only by law enacted by two-thirds of the elected members of each house.

No state general funds may be expended for the primary purpose of inducing persons to participate in the lottery. However, state general funds may be expended for the purpose of reasonably informing the public solely about the following factors pertaining to the operation and administration of the lottery:

- (a) The type or types of lottery to be conducted;
- (b) The price or prices of tickets or shares in the lottery;
- (c) The numbers and sizes of prizes;
- (d) The approximate odds of winning;
- (e) The manner of payment;
- (f) Frequency and time of awarding of prizes;
- (g) Location of sites for sale of tickets or shares and sites of determination of winners and awarding of prizes.

No political subdivision of the state shall authorize or conduct a lottery.

(B) Gambling. Gambling shall be defined by and suppressed by the legislature.

(C) Gaming, Gambling, or Wagering Referendum Elections. (1)(a) No law authorizing a new form of gaming, gambling, or wagering not specifically authorized by law prior to the effective date of this Paragraph shall be effective nor shall such gaming, gambling, or wagering be licensed or permitted to be conducted in a parish unless a referendum election on a proposition to allow such gaming, gambling, or wagering is held in the parish and the proposition is approved by a majority of those voting thereon.

(b) No form of gaming, gambling, or wagering authorized by law on the effective date hereof shall be licensed or permitted to be conducted in a parish in which it was not heretofore being conducted, except licensed charitable gaming which may be conducted in any parish provided it is conducted in compliance with the law, pursuant to a state license or permit unless a referendum election on a proposition to allow such gaming, gambling, or wagering is held in the parish and the proposition is approved by a majority of those voting thereon.

(2) No new license or permit shall be issued for the conducting of riverboat gaming, gambling, or wagering operations or activities at a berth or docking facility in a parish in which such gaming, gambling, or wagering is then being conducted, unless a referendum election on a proposition to allow such additional gaming, gambling, or wagering operations or activities has been held in the parish and the proposition has been approved by a majority of those voting thereon. In addition, no license or permit regardless of when issued shall be reissued, amended, or replaced to authorize the holder to conduct riverboat gaming, gambling, or wagering operations or activities at a berth or docking facility different from that authorized in the license or permit, unless a referendum election on a proposition to allow such gaming, gambling, or wagering operations or activities has been held in the parish in which the proposed berth or docking facility is located and the proposition has been approved by a majority of those voting thereon.

(3) The legislature may at any time repeal statutes authorizing gaming, gambling, or wagering.

(4) Notwithstanding Article III, Section 12, or any other provision of this constitution, the legislature by local or special law may provide for elections on propositions relating to allowing or prohibiting one or more forms of gaming, gambling, or wagering authorized by legislative act.

CREDIT(S)

1996 Main Volume

Amended by Acts 1990, No. 1097, § 1, approved Oct. 6, 1990, eff. Nov. 8, 1990.

1999 Electronic Pocket Part Update

Amended by Acts 1996, 1st Ex.Sess., No. 98, § 1, approved Sept. 21, 1996, eff. Oct. 15, 1996.

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL NOTES

##### 1999 Electronic Pocket Part Update

Pursuant to Acts 1996, 1st Ex.Sess., No. 98, § 1 a proposal to amend Article XII, § 6 was submitted to the electors of the state of Louisiana and was ratified by them on September 21, 1996.

Section 1 of Acts 1996, 1st Ex.Sess., No. 98 resolves that the proposed amendment be submitted to the electors for their approval or rejection. Section 2 of the Act provides that the proposed amendment be submitted to the electors at the congressional primary election to be held in 1996 (September 21, 1996), and that the proposed amendment become effective on the date the governor proclaims its adoption by a majority of the electors. Section 3 provides for the form of the ballot.

Section 4 provides:

"Section 4. The provisions of this proposed amendment shall be effective only if the proposed amendment of Article XII, Section 6 of the Constitution of Louisiana contained in the Act which originated as House Bill No. 1 of this 1996 First Extraordinary Session of the Legislature is not adopted."

House Bill No. 1 of the First Extraordinary Session failed to pass the legislature.

The governor proclaimed the adoption of the amendment on October 15, 1996. The amendment was effective on October 15, 1996.

The 1996 amendment of this section by Acts 1996, 1st Ex.Sess., No. 98 added par. (C) relating to referendum elections.

##### 1996 Main Volume

##### Earlier Constitutions:

1921, Art. 19, § 8.  
1913, Arts. 178, 188, 189.  
1898, Arts. 178, 188, 189.  
1879, Arts. 167, 172.  
1864, Art. 116.  
1852, Art. 113.  
1845, Art. 116.

Pursuant to Acts 1990, No. 1097, § 1, a proposal to amend this section was submitted to the electors of the state of Louisiana and was ratified by them on October 6, 1990.

Section 1 of Acts 1990, No. 1097 resolves that the proposed amendment be submitted to the electors for their approval or rejection. Section 2 of the Act provides that the proposed amendment be submitted to the electors at the congressional primary election to be held in 1990 (October 6, 1990). Section 3 provides for the form of the ballot.

Const. Art. 13, § 1(C) provides in part as follows: "If a majority of the electors voting on the proposed amendment approve it, the governor shall proclaim its adoption, and it shall become part of this constitution, effective twenty days after the proclamation...." The governor proclaimed the adoption of the amendment on October 18, 1990. The amendment became effective on November 8, 1990.

The amendment of this section by Acts 1990, No. 1097 rewrote this section, which formerly read:

"Section 6. Neither the state nor any of its political subdivisions shall conduct a lottery. Gambling shall be defined by and suppressed by the legislature."

Pursuant to Acts 1992, No. 1147, § 1, a proposal to amend Const. Art. 7, § 6, par. (A) was submitted to the electors of the state of Louisiana on November 3, 1992. The proposal was rejected and did not become law. As proposed, par. (A) would have read:

"Section 6. (A) Lotteries. (1) The legislature may provide for the creation and operation of a state lottery and may create a special corporation for that purpose whose employees shall not be subject to state civil service. The net proceeds from the operation of the lottery shall be deposited in a special fund created in the state treasury entitled the Lottery Proceeds Fund. Amounts deposited in the fund shall not be distributed by the state treasurer or be available for expenditure in the same calendar year in which they are received. The legislature may appropriate from the fund for any purpose, after making the appropriation required by Subparagraph (2).

"(2) Out of the monies deposited in the Lottery Proceeds Fund each year, the first five million dollars shall be credited to a special fund created in the state treasury entitled the Louisiana Health Insurance Association Fund. All monies in the fund shall be annually appropriated by the legislature to the Louisiana Health Insurance Association, or its successor. Any monies in the fund in excess of the amount needed to maintain the actuarial soundness of the Louisiana Health Insurance Association program as established by law shall revert to the Lottery Proceeds Fund.

"(3) A law providing for the creation and operation of a state lottery, once enacted, may be modified only by a law enacted by two-thirds of the elected members of each house but may be repealed in its entirety by a law enacted by a majority thereof. If such a law has been repealed, the legislature thereafter may provide for the creation and operation of a state lottery only by law enacted by two-thirds of the elected members of each house.

"(4) No state general funds may be expended for the primary purpose of inducing persons to participate in the lottery. However, state general funds may be expended for the purpose of reasonably informing the public solely about the following factors pertaining to the operation and administration of the lottery:

"(a) The type or types of lottery to be conducted.

"(b) The price or prices of tickets or shares in the lottery.

"(c) The numbers and sizes of prizes.

"(d) The approximate odds of winning.

"(e) The manner of payment.

"(f) Frequency and time of awarding of prizes.

"(g) Location of sites for sale of tickets or shares and sites of determination of winners and awarding of prizes.

"(5) No political subdivision of the state shall authorize or conduct a lottery."

#### CROSS REFERENCES

Casino gambling, Louisiana Economic Development and Gaming Corporation Act, see R.S. 4:601 et seq.

Charitable raffles, bingo, and keno, see R.S. 33:4861.1 et seq., 40:1485.1 et seq.

Confiscation and destruction of gambling devices, see R.S. 15:31.

Corporations, suppression of criminally operated businesses, see R.S. 12:1041.

Crimes and offenses, see R.S. 14:90.

Gambling houses as public nuisances, see R.S. 13:4721 et seq.

Habitual gamblers as guilty of vagrancy, see R.S. 14:107.

Horse race wagering, see R.S. 4:148 et seq.

Louisiana lottery corporation law, see R.S. 47:9000 et seq.

Municipalities, power to prohibit gambling, see R.S. 33:4851 et seq.

Off track wagering, see R.S. 4:213 et seq.

Open betting or quoting of odds in boxing or wrestling match forbidden, see R.S. 4:81.

Payments of gambling debts and bets, actions, see C.C. arts. 2983, 2984.

Racing, generally, see R.S. 4:141 et seq.

Riverboat gambling, Louisiana Riverboat Economic Development and Gaming Control Act, see R.S. 4:501 et seq.

Video draw poker devices control law, see R.S. 33:4862.1 et seq.

#### LAW REVIEW AND JOURNAL COMMENTARIES

Action on gaming and betting debts. 4 Tul.L.Rev. 600 (1930).

Bank night as a lottery. 1 La.L.Rev. 623 (1939).

Chance and skill as elements of gambling in Louisiana. 30 Tul.L.Rev. 129 (1955).

Home rule and local ordinances defining gambling. 38 La.L.Rev. 1108 (1978).

Legalized gambling, the Louisiana State Racing Commission. 16 La.L.Rev. 437 (1956).

License tax on slot machine; symposium of work of Supreme Court. Charles A. Reynard. 12 La.L.Rev. 172 (1952).

"Statutory" and "hortatory" provisions of the Louisiana Constitution of 1974. Lee Hargrave, 43 La.L.Rev. 647 (1983).

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Lotteries k1.  
WESTLAW Topic Nos. 188, 247.  
C.J.S. Gaming § 1 et seq.  
C.J.S. Lotteries § 8.

#### NOTES OF DECISIONS

Acceptance of money, horse racing 25  
Actions 37-42  
    Actions - In general 37  
    Actions - Burden of proof 39  
    Actions - Pleadings 38  
    Actions - Prima facie evidence 40  
    Actions - Questions of fact 41  
    Actions - Review 42  
Authorization for gambling, generally 2.5  
Bingo 20  
Burden of proof, actions 39  
Business, gambling conducted as, legislative authority to define gambling 8  
Card games 21  
Charitable raffles, bingo, and keno 20  
Construction and application 1  
Creditor's participation in gambling operation, gambling contracts and obligations 18  
Crimes and offenses 15  
Definition of gambling as legislature's duty 6-8  
Delegation of legislative authority to define gambling generally 7  
Delegation of duty and power of suppression 4  
Destruction of machines for gambling 30  
Dissemination of information on horse racing 26  
Duty and power of suppression 3-5  
    Duty and power of suppression - In general 3

- Duty and power of suppression - Delegation of duty and power of suppression 4
- Duty and power of suppression - Local government regulation 5
- Duty of legislature to define gambling 6-8
- Enforcement of gambling contracts and obligations
  - Enforcement of gambling contracts and obligations - Generally 16
  - Enforcement of gambling contracts and obligations - Horse racing 27
- Federal law 2
- Futures 32
- Gambling conducted as a business, legislative authority to define gambling 8
- Gambling contracts and obligations 16-18
  - Gambling contracts and obligations - Creditor's participation in gambling operation 18
  - Gambling contracts and obligations - Enforcement 16
  - Gambling contracts and obligations - Intent of parties 17
- Games constituting lotteries 12
- Horse racing 22-27
  - Horse racing - In general 22
  - Horse racing - Acceptance of money 25
  - Horse racing - Dissemination of information 26
  - Horse racing - Enforcement of contracts and obligations 27
  - Horse racing - Location 24
  - Horse racing - Validity of regulations 23
- Intent of parties, gambling contracts and obligations 17
- Jury questions 41
- Keno 20
- Legality, lotteries 11
- Legislative authority to define gambling 6-8
  - Legislative authority to define gambling - In general 6
  - Legislative authority to define gambling - Delegation of legislative authority to define gambling generally 7
  - Legislative authority to define gambling - Gambling conducted as a business 8
- Licenses 19
- Local government regulation
  - Local government regulation - Duty and power of suppression 5
  - Local government regulation - Lotteries 13
- Location, horse racing 24
- Lotteries 10-14
  - Lotteries - In general 10
  - Lotteries - Legality 11
  - Lotteries - Local government regulation 13
  - Lotteries - Transactions constituting lotteries 12
  - Lotteries - Use of proceeds 14
- Louisiana Health Insurance Association 34
- Machines for gambling 28-31
  - Machines for gambling - In general 28
  - Machines for gambling - Destruction 30
  - Machines for gambling - Money from seized machines 31
  - Machines for gambling - Slot machines 29 Money from seized machines 31
- Municipal regulation, duty and power of suppression 5
- Municipal regulation of lotteries 13
- Officers and public employees 33

Ordinances generally, duty and power of suppression 5  
Pleadings, actions 38  
Police power 3-5  
Prima facie evidence, actions 40  
Public financial reporting 35  
Questions of fact, actions 41  
Raffles 20  
Review, actions 42  
Slot machines 29  
Suppression, duty and power 3-5  
Taxes 36  
Transactions constituting lotteries 12  
Use of proceeds, lotteries 14  
Validity of regulations, horse racing 23  
Zoning ordinances 9

#### 1. Construction and application

This section is not self-executing, and gambling essentially is a crime only when and to extent that legislature has so declared it. *Theriot v. Terrebonne Parish Police Jury*, Sup.1983, 436 So.2d 515.

Provision of Const.1921, Art. 19, § 8, that gambling is a vice and that the Legislature shall pass laws to suppress it, is not self-executory, and, in absence of any legislation, there is no prohibitory law on the subject. *Gandolfo v. Louisiana State Racing Com'n*, Sup.1954, 227 La. 45, 78 So.2d 504.

Const.1921, Art. 19, § 8, is not self-operative. *State v. Mustachia*, Sup.1922, 152 La. 821, 94 So. 408.

The word "suppress," as used in Const.1913, Art. 188, and Const.1921, Art. 19, § 8, requiring the legislature to pass laws to suppress gambling, is equivalent to prohibit, put down, or end by force. *State v. Mustachia*, Sup.1922, 152 La. 821, 94 So. 408.

The word "gambling" means playing or gaming for money or other stakes. *City of Lake Charles v. Marcantel*, Sup.1910, 125 La. 170, 51 So. 106.

Mandate of this section to suppress gambling is not self-executing, and closely regulated legalization of gambling is permissible. *Op.Atty.Gen.*, No. 75-715, May 30, 1975.

#### 2. Federal law

Transportation of lottery tickets in interstate commerce by a licensed courier service or common carrier is prohibited under federal statute [18 U.S.C.A. § 1301] governing transportation or importation of lottery tickets. *Op.Atty.Gen.*, No. 88-471, Oct. 18, 1988.

#### 2.5. Authorization for gambling, generally

Legislature may permit gambling in the Superdome by constitutional amendment, local option legislation, or special legislation granting the power to permit gambling to the Louisiana Stadium & Exposition District. *Op.Atty.Gen.* No. 76- 1554, Jan. 7, 1977.

### 3. Duty and power of suppression--In general

Suppression or regulation of gambling is a legitimate state interest; legislative determination in defining and prescribing means of suppression constitutes appropriate exercise of police power for protection of the public. *Theriot v. Terrebonne Parish Police Jury*, Sup.1983, 436 So.2d 515.

Statutes designed to prevent gambling are within police power of states. *Vaughan v. Dowling*, Sup.1962, 243 La. 390, 144 So.2d 371.

The governor, through national guard, cannot enter a parish and arrest an individual or individuals found to be engaged in conducting banking games held under law to be gambling. *Op.Atty.Gen.*, 1926-28, p. 174.

### 4. ---- Delegation of duty and power of suppression

Const.1898, Art. 188, requiring the Legislature to pass laws for the suppression of gambling did not contemplate the withdrawal from the legislature of the power of delegating to municipalities the right to suppress gambling. *City of Lake Charles v. Marcantel*, 1910, 125 La. 170, 51 So. 106; *Town of Ruston v. Perkins*, 1905, 114 La. 851, 38 So. 583.

### 5. ---- Local government regulation, duty and power of suppression

As authorized by this section, legislature has defined certain conduct as gambling when conducted "as a business"; local government may be authorized to punish offense of gambling, as thus defined by legislature, but it may not similarly punish nonbusiness conduct as "gambling," since legislature alone is given constitutional power to define what conduct shall be suppressed as constituting gambling. *City of Shreveport v. Kaufman*, Sup.1977, 353 So.2d 995.

A municipality has no right to extend or enlarge upon statutory definition of gambling and enact a law defining gambling as intentional betting of anything of value at a card game without reference as to how the same shall be conducted or operated. *City of Alexandria v. La Combe*, Sup.1952, 220 La. 618, 57 So.2d 206.

Municipal authorities and police juries are authorized to adopt ordinances suppressing gambling and gambling houses. *Op.Atty.Gen.*, 1942-44, p. 245.

Local officials are charged with enforcement of the law, including all gambling laws. *Op.Atty.Gen.*, 1938-40, p. 140.

### 6. Legislative authority to define gambling--In general

To extent that local government seeks to punish as "gambling" conduct which falls outside definition enacted by legislature, it attempts to exercise authority which is inconsistent with this section. *City of Shreveport v. Kaufman*, Sup.1977, 353 So.2d 995.

A municipality has no right to extend or enlarge upon statutory definition of gambling and enact a law defining gambling as intentional betting of anything of value at a card game without reference as to how

the same shall be conducted or operated. *City of Alexandria v. La Combe*, Sup.1952, 220 La. 618, 57 So.2d 206.

7. ---- Delegation of legislative authority to define gambling, generally

Grant to Legislature, by Const. Art. 12, § 6, of exclusive mandate to define and suppress gambling prohibits Legislature from granting to parish governing bodies prerogative to decide what shall be in effect local gambling crimes. *State ex rel. Corbello v. Bond*, Sup.1983, 441 So.2d 742.

Although Legislature may not divest itself completely of its role as ultimate supervisor of gambling activities in state, Legislature may allow local option elections to permit gambling activities that would be subject to regulation by Legislature or a legislatively established commission. *Op.Atty.Gen.*, No. 75- 715, May 30, 1975.

8. ---- Gambling conducted as a business, legislative authority to define gambling

Ordinance prohibiting certain gambling with cards was unconstitutional where its proscription of nonbusiness conduct as gambling exceeded legislative definition in state gambling statute, R.S. 14:90. (*Per Lemmon, J.*, joined by two Justices, with two Justices concurring.) LSA-R.S. 14:90, 33:4852; LSA-Const. Art. 12, § 6. *State ex rel. Corbello v. Bond*, Sup.1983, 441 So.2d 742.

As authorized by this section, legislature has defined certain conduct as gambling when conducted "as a business"; local government may be authorized to punish offense of gambling, as thus defined by legislature, but it may not similarly punish nonbusiness conduct as "gambling," since legislature alone is given constitutional power to define what conduct shall be suppressed as constituting gambling. *City of Shreveport v. Kaufman*, Sup.1977, 353 So.2d 995.

Shreveport ordinance, which was authorized by city charter, and which included definition of "gambling," established by legislature, that is, certain conduct when conducted "as a business," but which went beyond legislature's definition and prohibited special activities which would not fall within classification of "business," was inconsistent with this section, and thus was unconstitutional. *City of Shreveport v. Kaufman*, Sup.1977, 353 So.2d 995.

Under statutory amendments, power of municipalities to define gambling in ordinances has been withheld and statutory definition of "gambling", which requires that gambling must be conducted as a business in order to become a misdemeanor or a crime, controls. *City of Alexandria v. La Combe*, Sup.1952, 220 La. 618, 57 So.2d 206.

9. Zoning ordinances

Article of State Constitution which mandates legislature to define and suppress gambling does not prevent local government from exercising constitutionally delegated home rule powers to adopt and enforce lawful and nonarbitrary zoning ordinance to restrict riverboat gaming activity to reasonable designated zones and locations. *St. Charles Gaming Co.*,

Inc. v. Riverboat Gaming Com'n, Sup.1995, 94-2697 (La. 1/17/95), 648 So.2d 1310.

Municipal zoning ordinance which restricted riverboat gaming activity within parish to locations on batture to be specifically designated by subsequent ordinances did not attempt to define or suppress activity that was defined and suppressed as "gambling" by legislature but, rather, ordinance only purported to regulate use of land in connection with state authorized riverboat "gaming" by designating specific zoning district for riverboat gaming. St. Charles Gaming Co., Inc. v. Riverboat Gaming Com'n, Sup.1995, 94-2697 (La. 1/17/95), 648 So.2d 1310.

#### 10. Lotteries--In general

Provision of Const.1921, Art. 19, § 8, that lotteries and sale of lottery tickets are prohibited in the state is self-executory and constitutes a prohibitory law on the subject, though legislation in support of such provision is necessary to make lotteries and sale of lottery tickets criminal offenses. Gandolfo v. Louisiana State Racing Com'n, Sup.1954, 227 La. 45, 78 So.2d 504.

Legislature is vested with plenary power to enact penal laws for suppression of lotteries of all kinds and conducted for any purpose. City of New Orleans v. Stone, Sup.1952, 221 La. 133, 58 So.2d 736.

The essential elements of a lottery are a consideration, a prize, and an award of the prize by chance. Op.Atty.Gen., 1956-58, p. 130.

#### 11. ---- Legality, lotteries

A constitutional amendment was necessary in order to hold a state lottery. Op.Atty.Gen., No. 84-319, April 6, 1984.

Lotteries are prohibited in the state. Op.Atty.Gen., 1942-44, p. 743.

Under Acts 1894, No. 169 (R.S. 14:90), and Const.1921, Art. 19, § 8, it was illegal to conduct lottery in state whether such lottery were locally or foreign operated, and it was duty of all cities and towns in state to make and enforce ordinances to suppress lotteries and sale of lottery tickets. Op.Atty.Gen., 1932-34, p. 206.

#### 12. ---- Transactions constituting lotteries

Where defendant conducted business by displaying on a counter a number of envelopes containing "Enterprise Tea" of the value of five cents and some of the envelopes contained, besides the tea, tickets entitling the holder to articles of value called "prizes" and customers on payment of five cents were allowed to choose an envelope from those exposed before them, and, if such envelope contained a ticket, the article called for by it was handed to the buyer by defendant, this was a violation of New Orleans Ord. No. 92, prohibiting lotteries. State v. Boneil, 1890, 42 La. Ann. 1110, 8 So. 298, 21 Am. St. Rep. 413, 10 L.R.A. 60; State v. Boneil, 1890, 42 La. Ann. 1207, 8 So. 300.

R.S. former 4:142, 4:148 (see, now, R.S. 4:144, 4:149) creating the Louisiana State Racing Commission and authorizing pari-mutuel wagering,

are not unconstitutional on ground that they authorize operation of a "lottery" in violation of Const.1921, Art. 19, § 8, providing that "lotteries" and sale of lottery tickets are prohibited in the state. Gandolfo v. Louisiana State Racing Com'n, Sup.1954, 227 La. 45, 78 So.2d 504.

Though number on which light is flashed in a so-called flashlight game depends somewhat on proficiency of player operating electrical device, where others than the operator are permitted to play by betting on the number which will be flashed, the game constitutes a "lottery". State v. Lasselle, Sup.1923, 154 La. 168, 97 So. 389.

A "lottery" is a scheme for the distribution of prizes by chance and includes the "gambling device" commonly called a "punch board". City of Shreveport v. Kahn, Sup.1914, 136 La. 371, 67 So. 35.

The use of a slot machine, where an element of chance determines whether the prizes are to be given, brings such operation under the definition of a lottery, whether or not the prizes given are stock in trade of licensed establishments. City of New Orleans v. Collins, Sup.1900, 52 La. Ann. 973, 27 So. 532.

The game ordinarily known as "pin pool," in which the proprietor charges each player a certain amount for the privilege of playing, and in which the winner takes the amount put in by the other players as a stake, the proprietor receiving nothing of the winnings, is not a gambling game, in the sense of the constitution and laws; and a city ordinance denouncing it as such is illegal. State v. Quaid, Sup.1891, 43 La. Ann. 1076, 10 So. 183.

A "raffle" is a lottery, so long as there is present the elements of a consideration, a prize, and an award of a prize by chance. Op. Atty. Gen., 1956-58, p. 130.

The game of "bingo" is a lottery. Op. Atty. Gen., 1956-58, p. 130.

The game of "keno" is a lottery. Op. Atty. Gen., 1956-58, p. 130.

An advertising plan to be used by small town merchants whereby persons who could prove that they were in the merchant's store on the lowest cash sales day of previous month would be given merchandise valued at 50 cents, or some other specified sum in merchandise, would not violate the lottery laws. Op. Atty. Gen., 1936-38, p. 140.

A proposal of a veteran's organization to sell premium coupons to merchants at a small cost to the merchant, who would give the coupons to customers with purchases, and providing that customers would collect coupons to be redeemed by the veteran's organization for premiums, would be valid provided there was no drawing or element of chance involved in obtaining a premium by the customer. Op. Atty. Gen., 1936-38, p. 139.

Under Acts 1898, No. 57, use of punch board in connection with giving award of premium to purchasers of laundry soap was prohibited. Op. Atty. Gen., 1934-36, p. 180.

Lottery law did not extend to small presents given by merchants to stimulate trade even though presents were awarded by drawing left to chance. Op.Atty.Gen., 1934-36, p. 177.

Lottery tickets of sweepstake variety were prohibited under Acts 1894, No. 169 (R.S. 14:90), as amended by Acts 1902, No. 107 and Acts 1914, No. 280 (R.S. 14:90). Op.Atty.Gen., 1934-36, p. 176.

Giving away a cash prize at certain times for numbered stubs given with each cash purchase at store constituted a violation of lottery law embodied in Acts 1914, No. 280 (R.S. 14:90), which amended Acts 1902, No. 107, § 12 (R.S. 14:90), and Acts 1934, 2d Ex.Sess., No. 12, § 1 (R.S. 14:90). Op.Atty.Gen., 1934-36, p. 174.

### 13. ---- Local government regulation, lotteries

Commission council of city of New Orleans had authority under city charter to provide for mandatory fine and jail sentence for persons who were three time violators of city ordinance prohibiting acting as a lottery agent. *City of New Orleans v. Stone*, Sup.1952, 221 La. 133, 58 So.2d 736.

Under charter of city of New Orleans, commission council could make criminal all lotteries despite fact that legislature had imposed criminal responsibility only where lottery was operated as a business. *City of New Orleans v. Stone*, Sup.1952, 221 La. 133, 58 So.2d 736.

An ordinance of the city of New Orleans, which makes it unlawful for any one to sell, barter, exchange, or otherwise dispose of any lottery tickets, is a police regulation within the meaning of the city charter and the state constitution, and is valid. *State v. Dobard*, Sup.1893, 45 La. Ann. 1412, 14 So. 253.

Under Acts 1894, No. 169 (R.S. 14:90), and Const.1921, Art. 19, § 8, it was illegal to conduct lottery in state whether such lottery were locally or foreign operated, and it was duty of all cities and towns in state to make and enforce ordinances to suppress lotteries and sale of lottery tickets. Op.Atty.Gen., 1932-34, p. 206.

### 14. ---- Use of proceeds, lotteries

Louisiana Health Insurance Association may only receive lottery proceeds pursuant to appropriation by legislature. Op.Atty.Gen., No. 92-206, March 31, 1992.

### 15. Crimes and offenses

Gambling is a crime only to the extent to which the legislature declares it so. *State v. Mustachia*, Sup.1922, 152 La. 821, 94 So. 408.

Gambling in any form was a violation of the law. Op.Atty.Gen., 1934-36, p. 620.

### 16. Gambling contracts and obligations--Enforcement

Courts will not entertain demands for collection of notes or other obligations, which have been given for a gambling debt, or for a cause

or consideration which is unlawful or contrary to public order or morals. *Wilson v. Sawyer*, App. 2 Cir.1958, 106 So.2d 831.

Courts will not entertain actions to recover what has been either won or lost in gambling. *Wilson v. Sawyer*, App. 2 Cir.1958, 106 So.2d 831.

Courts will not render assistance to a litigant to enforce a gambling obligation. *Domino v. La Bord*, App. 1 Cir.1957, 99 So.2d 841.

Courts will not lend their aid to endorse contracts or transactions contrary to good morals or public policy, such as gambling contracts. *Russo v. Mula*, App. 1 Cir.1950, 49 So.2d 622.

Recovery cannot be had on a note given in settlement of a gambling transaction. *Keen v. Butterworth*, App.1938, 185 So. 37.

Wagering contracts are ordinarily void, and actions for recovery of money won on wagers are not sustainable. *Stewart Bros. v. Beeson*, Sup.1933, 177 La. 543, 148 So. 703.

A court of justice will not enforce an obligation where it appears to be nothing more a bet in disguise on a presidential election. *Barham v. Livingston*, 1857, 12 La. Ann. 618.

17. ---- Intent of parties, gambling contracts and obligations

To be a gambling contract prohibited by Const.1921, Art. 19, § 8, there must be a mutual illegal intent to gamble and intent of one party not communicated to or concurred in by the other will not nullify an agreement. *Jordan v. Bache & Co. Inc.*, App. 4 Cir.1978, 360 So.2d 603, writ denied 362 So.2d 1387.

18. ---- Creditor's participation in gambling operation, gambling contracts and obligations

Fact that gambling took place in Nevada where it was legal did not grant plaintiff right to bring action against defendant in Louisiana to enforce alleged gambling contract, under which plaintiff and defendant were to go to Las Vegas and split winnings and losses. *Lauer v. Catalanotto*, App. 5 Cir.1988, 522 So.2d 656.

Plaintiff was liable to defendant for \$1,300 defendant loaned plaintiff, although plaintiff used money for gambling; defendant and another witness testified that plaintiff asked for loan and since defendant was not involved in gambling transaction for which plaintiff requested money, loan was not a prohibited gambling contract. *Lauer v. Catalanotto*, App. 5 Cir.1988, 522 So.2d 656.

When lender exacted promise of bonus payable from profits of gambling operations, lender conditioned full repayment of loan to success of gambling operations and to that extent became participant in gambling venture, and lender was not entitled to recover on note given by borrowers. *Lillis v. Perez*, App. 4 Cir.1962, 144 So.2d 455.

Where plaintiff did not own gambling establishment but his employers owned a substantial interest in establishment and plaintiff occasionally worked in and tended bar in the establishment and although

plaintiff knew defendant only casually he invited defendant to come to club and advanced him a substantial sum of money for purpose of engaging in a poker game in which plaintiff did not participate, and plaintiff guaranteed repayment of additional sums borrowed by defendant from other participants in the game, a number of whom were intimate friends of plaintiff, who tended bar and managed club during time poker game was in progress, plaintiff was not wholly unconnected with the illegal activity and was not an innocent bystander, and he could not maintain an action to recover the amount which he had lent to the defendant. *West v. Loe Pipe Yard*, App. 3 Cir.1960, 125 So.2d 469.

One who lends money to another to pay a gambling debt incurred in a transaction with which the lender was wholly unconnected may be classified as an innocent bystander to the illegal activity, and he may maintain an action to recover the amount which he has lent, but one who owns or operates a gambling establishment and who lends money for purpose of paying a gambling debt incurred in such establishment cannot recover the money lent, because he was not wholly unconnected with the illegal activity. *West v. Loe Pipe Yard*, App. 3 Cir.1960, 125 So.2d 469.

Recovery is not barred on an obligation contracted with a third person for the purpose of gambling even though that person knew the purpose of the transaction. *Domino v. La Bord*, App. 1 Cir.1957, 99 So.2d 841.

Where 30 members of club, including plaintiff and defendant, engaged at poker and dice games under plan whereby accounts between members were not liquidated until the end of the week and then winners would collect from losers, whether the winners had participated in same games as losers or not, and if a member should fail to pay his losses at the end of the week, cash received from losers who paid would be prorated among winners, and defendant could not pay his losses, and plaintiff and several other winners, and plaintiff and several share of cash, took defendant's notes for their winnings, plaintiff could not enforce payment of note, since it was given in settlement of a gambling transaction rather than in payment of a loan. *Keen v. Butterworth*, App.1938, 185 So. 37.

The fact that one of the winners in gambling games, who took note of one of the losers for part of his losses, may not have actually played against the loser, would not entitle the winner to recover on note, since he was seeking recovery of money lost in unlawful transaction, and where the consideration for a bill or note is partly illegal because it has been given in part in payment of a gambling debt, the illegality will render the entire instrument unenforceable, unless the legal part may be separated from the illegal part. *Keen v. Butterworth*, App.1938, 185 So. 37.

Betting on elections being a criminal offense, no action will lie to recover from a stakeholder an amount deposited with him as a bet. *Davis v. Holbrook*, 1846, 1 La. Ann. 176.

#### 19. Licenses

Statutes authorizing licensing of gaming operations did not violate constitutional mandate to suppress gambling; legislature was entitled to define gambling and to exempt from that definition certain forms of

gambling not prohibited by Constitution. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Under Const.1921, Art. 19, § 8 condemning gambling and lotteries, and under Acts 1934, 2d Ex.Sess., No. 12 prohibiting lotteries, gambling and operation of lottery may not be licensed as lawful occupations. State v. Barbee, Sup.1937, 187 La. 529, 175 So. 50.

The legislature may not license any sort of gambling. State v. Mustachia, Sup.1922, 152 La. 821, 94 So. 408.

Municipal corporations may not license gambling or condone its operation in any other way, since gambling is a crime under Const.1921, Art. 19, § 8, and the Criminal Code. Op.Atty.Gen., 1944-46, p. 109.

#### 20. Charitable raffles, bingo, and keno

Purportedly nonprofit corporation which conducted bingo games and games of chance resulting in approximately 1.3 million dollars gross receipts and single \$500 donation to needy organization during two and one-half month period was not within purview of exemption of R.S. 33:4861.4 to prohibition of Const. Art. 12, § 6 and R.S. 14:90.2 against gambling provided by Charitable Raffles, Bingo and Keno Licensing Law (R.S. 33:4861 et seq.), and such games could be permanently enjoined as public nuisance. State v. Opelousas Charity Bingo, Inc., App. 3 Cir.1985, 462 So.2d 1380.

Charitable Raffles, Bingo and Keno Licensing Law (R.S. 33:4861.1 et seq.) shall be strictly construed, since it was enacted as exception to Const. Art. 12, § 6 demanding suppression of gambling. State v. Opelousas Charity Bingo, Inc., App. 3 Cir.1985, 462 So.2d 1380.

Scheme set out by legislature (R.S. 33:4861.1 et seq.) by which local governing authorities are to determine whether and how restrictively to authorize charitable bingo is in keeping with legislature's mandate under this section to define and to suppress gambling. Theriot v. Terrebonne Parish Police Jury, Sup.1983, 436 So.2d 515.

Legislature, in excepting charitable raffles, bingos and kenos from general prohibition against gambling, has delegated decision to permit or prohibit such games to respective municipalities or governing authorities. Theriot v. Terrebonne Parish Police Jury, Sup.1983, 436 So.2d 515.

Religious, civic, fraternal, or similar organizations cannot hold bingo games or raffles, regardless of the purpose for which the proceeds are used. Op.Atty.Gen., 1956-58, p. 130.

A "raffle" is a lottery, so long as there is present the elements of a consideration, a prize, and an award of a prize by chance. Op.Atty.Gen., 1956- 58, p. 130.

The game of "bingo" is a lottery. Op.Atty.Gen., 1956-58, p. 130.

The game of "keno" is a lottery. Op.Atty.Gen., 1956-58, p. 130.

Public schools cannot conduct games of "bingo" and "cake walk" in order to obtain athletic equipment without violating gambling statute, and if children under 17 years of age are present, they would also violate statute relative to contributing to delinquency of juveniles. Op.Atty.Gen., 1946-48, p. 126.

#### 21. Card games

Draw poker is a gambling game, pure and simple, more widely recognized as such than any other game known to the American people. City of Lake Charles v. Marcantel, Sup.1910, 125 La. 170, 51 So. 106.

A faro game is a banking game. State v. Behan, Sup.1904, 113 La. 754, 37 So. 714.

#### 22. Horse racing--In general

Pari-mutuel wagering on horse races, when properly authorized and licensed by State Racing Commission, is not illegal and is not nuisance per se. Dudoussat v. Louisiana State Racing Commission, App. 4 Cir.1961, 133 So.2d 155.

R.S.1950, 4:132, 4:148, creating the Louisiana State Racing Commission and authorizing pari-mutuel wagering are not unconstitutional as authorizing gambling in violation of Const.1921, Art. 19, § 8, providing that gambling is a vice and the Legislature shall pass laws to suppress it, since the constitutional provision is not self-operative. Gandolfo v. Louisiana State Racing Com'n, Sup.1954, 227 La. 45, 78 So.2d 504.

R.S. former 4:142, 4:148 (see, now, R.S. 4:144, 4:149) creating the Louisiana State Racing Commission and authorizing pari-mutuel wagering, are not unconstitutional on ground that they authorize operation of a "lottery" in violation of Const.1921, Art. 19, § 8, providing that "lotteries" and sale of lottery tickets are prohibited in the state. Gandolfo v. Louisiana State Racing Com'n, Sup.1954, 227 La. 45, 78 So.2d 504.

Proposed harness racing meeting, which the Louisiana State Racing Commission had authorized and licensed, and which corporation proposed to operate, with pari-mutuel betting, is not prohibited by law. Gandolfo v. Louisiana State Racing Com'n, Sup.1954, 227 La. 45, 78 So.2d 504.

There is no law on the statute books which makes betting on horse races as carried on by the turf exchanges a public wrong. City of Shreveport v. Maloney, Sup.1902, 107 La. 193, 31 So. 702.

Under Const.1898, Art. 188, providing that gambling is a vice, and that the Legislature shall pass laws to suppress it, the question whether betting on races at a distance, out of view, through the medium of the turf exchange, is gambling, is left to the Legislature by the clear terms of such article. City of Shreveport v. Maloney, Sup.1902, 107 La. 193, 31 So. 702.

All gambling is prohibited in Louisiana except licensed gambling at race tracks under the supervision of the Louisiana state racing commission. Op.Atty.Gen., 1944-46, p. 363.

23. ---- Validity of regulations, horse racing

Under Const.1921, Art. 19, § 8, declaring that gambling is a vice and that Legislature shall pass laws to suppress it, Legislature, in the exercise of its police power, has power to entirely prohibit pari-mutuel wagering or the bookmaking form of gambling on horse races or may provide for the limited licensing thereof without such act being invalid as discriminatory, since the business of gambling is not one that demands the consideration accorded to vocations which are necessary or useful to community or harmless in themselves and such business may be lawfully discriminated against. State v. Saia, Sup.1947, 212 La. 868, 33 So.2d 665.

The provisions of Acts 1940, No. 276, § 7 (R.S.1950, 4:145), for the regulation of horse racing and wagering thereon, insofar as they authorize wagering on horse races only when confined to race meeting grounds to be designated, licensed, and authorized by the Racing Commission and conducted by persons licensed by commission, are not unconstitutional as discriminatory, as depriving unlicensed bookmaker of equal protection of the law, as an unreasonable exercise of police power or as local or special legislation. State v. Saia, Sup.1947, 212 La. 868, 33 So.2d 665.

24. ---- Location, horse racing

The provisions of Acts 1940, No. 276, § 7 (R.S.1950, 4:145), for the regulation of horse racing and wagering thereon, insofar as they authorize wagering on horse races only when confined to race meeting grounds to be designated, licensed, and authorized by the Racing Commission and conducted by persons licensed by commission, are not unconstitutional as discriminatory, as depriving unlicensed bookmaker of equal protection of the law, as an unreasonable exercise of police power or as local or special legislation. State v. Saia, Sup.1947, 212 La. 868, 33 So.2d 665.

Bets may be made and collected on horse races irrespective of place of race or ownership of horse. Mehle v. McLean, App.1932, 139 So. 681, 19 La.App. 425.

Acts 1920, No. 127, making it unlawful to encourage or assist any one to bet on a horse race outside the track or inclosure where the race takes place, is an exercise of the police power to prohibit betting or gambling under Const.1913, Art. 188, and Const.1921, Art. 19, § 8. State v. Mustachia, Sup.1922, 152 La. 821, 94 So. 408.

25. ---- Acceptance of money, horse racing

Acceptance of money by disinterested party to be transported and legally bet at lawful race meeting does not violate statutes restricting wagering on horse races to a pari-mutuel pool at licensed tracks. State v. Countdown, Inc., App. 4 Cir.1974, 305 So.2d 634, writ issued 309 So.2d 675, affirmed 319 So.2d 924.

Corporation which for a fee accepted money to be legally bet as directed by its customers was not engaged in de facto off track betting in violation of R.S. 4:149, since corporation accepted no wagers on any horse race but merely accepted money to be bet and was a disinterested intermediary which assumed no monetary risk. *State v. Countdown, Inc.*, App. 4 Cir.1974, 305 So.2d 634, writ issued 309 So.2d 675, affirmed 319 So.2d 924.

26. ---- Dissemination of information on horse racing

Under Acts 1934, Ex.Sess., No. 26, as amended by Acts 1934, 2d Ex.Sess., No. 13, an individual or corporation was prohibited from selling any race horse information whatsoever through medium of telephone, telegraph, or any other method. *Op.Atty.Gen.*, 1934-36, p. 187.

It was a violation of Acts 1934, Ex.Sess., No. 26, for news dealer to sell newspapers and magazines to general public where newspapers and magazines contained racing news. *Op.Atty.Gen.*, 1934-36, p. 183.

It was a violation of Acts 1934, No. 26, for a person conducting a pool room, barroom, saloon, or restaurant or any other place outside of the enclosure of a licensed race track to place on the wall or to exhibit to the general public newspapers or magazines containing racing news. *Op.Atty.Gen.*, 1934-36, p. 183.

Under Acts 1934, Ex.Sess., No. 26, local newspapers could not carry news stories regarding horse races at state fair. *Op.Atty.Gen.*, 1934-36, p. 182.

Acts 1934, 2d Ex.Sess., No. 13, § 3, which amended Acts 1934, Ex.Sess., No. 26, relative to dissemination of racing news, did not apply to newspapers published daily and consecutively for one year prior to adoption of act. *Op.Atty.Gen.*, 1934-36, p. 181.

27. ---- Enforcement of contracts and obligations, horse racing

Const.1921, Art. 19, § 8, denouncing gambling, did not repeal C.C. Art. 2983, excepting from unenforceable bets sums won on horse racing. *Mehle v. McLean*, App.1932, 139 So. 681, 19 La.App. 425.

As the right to recover a bet on the result of a horse race has been recognized by the statute, betting on horse races is not illegal. *City of Shreveport v. Maloney*, Sup.1902, 107 La. 193, 31 So. 702.

A contract to run a horse in a race is not prohibited by law, and money won on such a race may be recovered by action in the courts; but such contracts, although permitted, are regarded with suspicion by the law, and the judge is authorized to reject the entire demand, where the same appears to him excessive. *Grayson v. Whatley*, 1860, 15 La. Ann. 525.

28. Machines for gambling--In general

Marble machines which were played purely for skill and pleasure were not prohibited but if mayor and board of aldermen held that such

machines were to be disallowed they were not to be destroyed but were to be prohibited and closed. Op.Atty.Gen., 1934-36, p. 209.

A ball machine played for pleasure and based on skill and involving no gambling or betting was permitted under Acts 1908, No. 107. Op.Atty.Gen., 1934-36, p. 208.

Machine known as "Pace's Races" which had automatic payoff device and afforded player an opportunity to gamble in the operation could not be legally operated in Louisiana. Op.Atty.Gen., 1934-36, p. 197.

29. ---- Slot machines

The use of a slot machine, where an element of chance determines whether the prizes are to be given, brings such operation under the definition of a lottery, whether or not the prizes given are stock in trade of licensed establishments. City of New Orleans v. Collins, Sup.1900, 52 La. Ann. 973, 27 So. 532.

Operation of slot machines was not permitted in Louisiana. Op.Atty.Gen., 1934-36, p. 196.

Under Acts 1898, No. 57, as amended by Acts 1908, No. 107 [R.S. 15:26.1 (repealed; see, now, R.S. 15:31) ], claw machine operated by inserting a nickel and rotating a derrick pointing in direction desired by player which caused boom to descend and claw to close on prize was not a slot machine or a "similar mechanical device" within such act. Op.Atty.Gen., 1934-36, p. 193.

Under Acts 1908, No. 107 [former R.S. 15:26.1] machine that vended checks as well as gum only and checks were redeemable in merchandise or cash was prohibited but was not to be destroyed unless there was a clear gambling feature to it which would classify it strictly as a slot machine. Op.Atty.Gen., 1934-36, p. 192.

30. ---- Destruction of machines for gambling

R.S. 15:31, allowing police to summarily destroy slot machines, which historically have been treated as contraband, follows mandate of this section to suppress gambling and thus does not violate Const. Art. 1, §§ 2 and 4, regarding due process and right to private property. Brown v. State, Through Dept. of Public Safety, Division of Louisiana State Police, Sup.1980, 392 So.2d 415, certiorari denied 101 S.Ct. 3085, 452 U.S. 940, 69 L.Ed.2d 955.

Automatic money pay-off slot machines violate gambling provision of Criminal Code, and also violate statute authorizing state officers to confiscate and immediately destroy all gambling devices known as slot machines that may come to their attention. Op.Atty.Gen., 1946-48, p. 139.

Superintendent of bureau of criminal identification and investigation was under a duty to destroy slot machines. Op.Atty.Gen., 1934-36, p. 207.

Justice of the peace and his constable had authority to seize and destroy slot machines in their ward. Op.Atty.Gen., 1934-36, p. 207.

31. ---- Money from seized machines

Money taken from slot machines was to be deposited in registry of court so that claimants thereof could go into court and assert claims leaving the matter for the court to determine. Op.Atty.Gen., 1934-36, p. 210.

Money found in slot machines which had been confiscated and destroyed was to be deposited in registry of court in whose jurisdiction machine was located and district judge, at his discretion, could direct clerk of court to turn over money to general fund of parish. Op.Atty.Gen., 1934-36, p. 194.

32. Futures

Contract to purchase eggs at stated amount for future delivery was not gambling transaction. Gerde Newman & Co. v. Curcuru, 1932, 18 La.App. 572, 139 So. 83; Gerde Newman & Co. v. Fourcade, 1932, 19 La.App. 148, 140 So. 85.

Contract for purchase of soybean futures was not a "gambling contract" prohibited by provision of Const.1921, Art. 19, § 8, even though broker failed to collect advance due on margin purchase, buyer did not intend to accept delivery of the soybean oil and broker knew that; thus broker was entitled to recover from buyer the sum he lost when market went down. Jordan v. Bache & Co. Inc., App. 4 Cir.1978, 360 So.2d 603, writ denied 362 So.2d 1387.

Executory contract for sale of goods for future delivery is not wagering contract although at its date seller had not the goods and had not entered into any arrangement to provide them. Stewart Bros. v. Beeson, Sup.1933, 177 La. 543, 148 So. 703.

There are certain lawful methods of closing out contracts for grain or cotton without rendering them wagering contracts or illegal, such as by sales, by direct set-offs, and ringing off before times of delivery specified. Stewart Bros. v. Beeson, Sup.1933, 177 La. 543, 148 So. 703.

Transaction, in which defendant dealt in cotton futures with plaintiff as broker or agent, was not wagering contract, where broker contemplated actual delivery. Stewart Bros. v. Beeson, Sup.1933, 177 La. 543, 148 So. 703.

Contract entitling seller to difference between contract and market price at time and place for delivery, if not accepted, was not mere gambling. Washburn Crosby Co. v. Riccobono, Sup.1926, 162 La. 698, 111 So. 65.

The custom of sugar planters to sell their molasses in advance of its being made, early in the year, for delivery through the summer and fall, is not reprehensible, either in law or morals. Penick & Ford v. C. Lagarde Co., Sup.1919, 146 La. 511, 83 So. 787.

Where plaintiffs, as agents of defendant, entered into certain contracts of sale of cotton for future delivery with third persons, the

legality of the contracts depends on the dealings between the parties, and cannot be affected by the fact that in various transactions which plaintiffs, as agents, settlements with other third persons, settlements had been made by adjustment of differences. *Gruner v. Stucken*, Sup.1887, 39 La. Ann. 1076, 3 So. 338.

The record showing that future delivery was contemplated by the parties, the contract, even if made in the State of Mississippi, was not violative of the laws of that State. *Searles v. Meyer*, 1906, 4 Orleans App. 109.

Where a contract for the sale of property not then possessed by the vendor, to be delivered in future, is claimed to be illegal in being a mere speculation in the future price without any intention of delivering or accepting the property, its validity depends upon the state of things existing at its date, and is not affected by subsequent agreements under which the parties voluntarily assent to a settlement on the basis of differences. *Conner v. Robertson*, 1885, 37 La. Ann. 814.

A contract for the sale of property which the vendor does not possess, to be delivered in future, is not illegal unless both parties understood it to be a mere speculation in the future price, with no intention of delivering or accepting; and its validity is not affected by a failure to identify the particular goods sold. *Conner v. Robertson*, 1885, 37 La. Ann. 814.

Contracts of sale that do not contemplate the actual bona fide delivery of the property by the seller, nor the payment by the buyer, but are intended to be settled by paying the difference in price at some future time, are gambling contracts. *In re Succession of Condon*, 1881, 1 McGloin, 351.

### 33. Officers and public employees

The participation by the Police Jury or any of its employees or agents, in the selling of tickets or in any conducting or assisting in conducting a raffle is strictly prohibited by the Raffle Law, the Criminal Code and the Louisiana Constitution. *Op. Atty. Gen.*, No. 85-693A, Oct. 15, 1985.

### 34. Louisiana Health Insurance Association

Amendments to Article 8, section 6 of Louisiana Constitution of 1974 did not affect the means of funding Louisiana Health Insurance Association set forth in statutes 22:231 to 22:242. *Op. Atty. Gen.*, No. 91-174, May 29, 1991.

### 35. Public financial reporting

The Lottery Corporation is not required to submit a report of all banking and checking accounts to the cash management review board as required by R.S. 39:371-374. *Op. Atty. Gen.*, No. 93-565, Dec. 30, 1993.

### 36. Taxes

Former R.S. 47:341 to 47:405, imposing tax on businesses and occupations therein specifically enumerated, was intended to impose taxes only on lawful businesses and occupations and omnibus clause of former R.S. 47:395, levying tax on any businesses not otherwise specifically enumerated, furnished no basis for believing that it was designed to include unlawful as well as lawful pursuits, and city could not collect occupational license tax from defendant for conducting business of lottery vendor. *City of New Orleans v. Forsyth*, Sup.1957, 233 La. 981, 99 So.2d 316.

Acts 1934, 3d Ex.Sess., § 20(d), as amended by Acts 1948, No. 6, exacting a tax upon business of operating gambling slot machines and providing that payment of tax thereunder imposed does not legalize operation of machines prohibited by law, does not violate this section declaring gambling to be a vice and directing Legislature to pass laws to suppress gambling. *Giamalva v. Cooper*, Sup.1950, 217 La. 979, 47 So.2d 790.

### 37. Actions--In general

Failure of owner of coin-operated electrically-actuated machine, which owner sought to enjoin city from destroying as gambling device, to call proprietor of bar where machine was placed or any of proprietor's employees or customers to testify as to manner or system employed in operating machine was required to be construed against owner. *Vaughan v. Dowling*, Sup.1962, 243 La. 390, 144 So.2d 371.

### 38. ---- Pleadings, actions

A charge that defendant sold "illegal prize packages of tea" in violation of a city ordinance prohibiting lotteries, etc., is sufficient where it alleges the time, place, and date of the commission of the act complained of. *State v. Boneil*, 1890, 42 La. Ann. 1110, 8 So. 298; *State v. Boneil*, 1890, 42 La. Ann. 1207, 8 So. 300.

In prosecution for gambling by conducting as a business a lottery, motion for a bill of particulars as to the kind of lottery involved was properly denied, since the word "lottery" as used in the code and information is not vague nor indefinite and every layman knows exactly what is meant by the term. *State v. Mills*, Sup.1956, 229 La. 758, 86 So.2d 895, certiorari denied 77 S.Ct. 51, 352 U.S. 834, 1 L.Ed.2d 53, certiorari denied 77 S.Ct. 52, 352 U.S. 834, 1 L.Ed.2d 53.

### 39. ---- Burden of proof, actions

In action by veterans organization to recover bingo game jackpot allegedly won through fraud, plaintiff had burden of proving that payment was induced by winner's fraud pursuant to C.C. art. 2984, prohibiting recovery of gambling debts in absence of fraud, in that organization had not satisfied all conditions of R.S. 33:4861.1 et seq., providing for lawful operation of bingo games, at time of alleged fraud. *David Shelton Amvets Post 60 v. Sam*, App. 3 Cir.1980, 389 So.2d 785, writ refused 395 So.2d 810.

Where a contract for the sale of property which the vendor does not possess, to be delivered in future, is claimed to be illegal as being a mere speculation in the future price without any intention of

delivering or accepting the property, the burden of proof is on the party alleging the illegality. Conner v. Robertson, 1885, 37 La. Ann. 814.

40. ---- Prima facie evidence, actions

City ordinance prohibiting acting as a lottery agent, by making possession of lottery tickets prima facie evidence that they were kept for sale, did not violate state and federal constitutions in that ordinance forced accused to give evidence in a criminal case. City of New Orleans v. Stone, Sup.1952, 221 La. 133, 58 So.2d 736.

An ordinance relative to lotteries, and providing that it shall not be necessary to prove the actual sale of tickets, but any device used to indicate that tickets are kept for sale, or to give information as to the result of any drawing, shall be taken as proof of the keeping of a lottery office, is not invalid as making the holder of a ticket guilty without guilty knowledge or intent. State v. Voss, Sup.1897, 49 La. Ann. 444, 21 So. 596.

41. ---- Questions of fact, actions

Whether government could sustain its burden that pinball machines were designed and manufactured primarily for use in connection with gambling within meaning of Louisiana law was question of fact to be submitted to the jury in prosecution for interstate transportation in aid of illegal gambling business and conducting illegal gambling business and conspiracy and did not present basis for dismissal of indictment. U. S. v. Bally Mfg. Corp., E.D.La.1972, 345 F.Supp. 410.

42. ---- Review, actions

Constitutionality of "charitable raffles, bingo and keno licensing law," R.S. 33:4861.1 et seq., and issue whether a cause of action to enforce a gaming debt could be maintained would not be considered on appeal from judgment requiring operator of bingo game to pay plaintiff the jackpot won by her where issue of constitutionality had not been raised and plaintiff's cause of action had not been challenged. Marceaux v. V. F. W. Post 2130, App. 3 Cir.1976, 337 So.2d 923.

LSA-Const. Art. 12, § 6

LA CONST Art. 12, § 6

END OF DOCUMENT

LA R.S. 27:205

LSA-R.S. 27:205

LOUISIANA REVISED STATUTES

TITLE 27. LOUISIANA GAMING CONTROL LAW

CHAPTER 5. THE LOUISIANA ECONOMIC DEVELOPMENT AND GAMING CORPORATION LAW

PART II. GENERAL PROVISIONS

Acts

§ 205. Definitions

When used in this Chapter, the following terms have these meanings:

(1) "Applicant" means any person who has submitted an application or bid to the corporation for a permit, license, or contract under the provisions of this Chapter.

(2) "Application" means the documentation and forms submitted by a person, on a form provided by the corporation, requesting issuance of a permit, license, or a proposed contract. Application also includes all documents and information incorporated in, attached to, or submitted with the application form specifically including personal history questionnaires and financial disclosure forms.

(3) "Board" means the board of directors of the corporation.

(4) "Casino gaming operations" means any gaming operations offered or conducted at or in the official gaming establishment.

(5) "Casino gaming operator" or "casino operator" means any person who enters into a casino operating contract with the corporation requiring that person to conduct casino gaming operations according to the provisions of this Chapter.

(6) "Casino operating contract" means a contract let or bid by the corporation, in accordance with the provisions of this Chapter, authorizing a casino operator to conduct casino gaming operations at the official gaming establishment for the benefit of the state and the casino gaming operator.

(7) "Corporation" means the Louisiana Economic Development and Gaming Corporation, which except as specifically provided in this Chapter shall be a special corporation operated for a public purpose, the ownership interest of which is vested in the state.

(8) "Director" or "member" means a member of the board of directors of the corporation.

(9) "Distributor" means any person who buys, sells, leases, services, or repairs slot machines and provides a facility for the inspection of those devices as required by the corporation.

(10) "Economic interest" means any interest in a contract or license which a person receives or is entitled to receive by agreement, or otherwise a profit, gain, thing of value, loss, credit, security, interest, ownership interest, or other benefit.

(11) "Employee permit" or "gaming employee permit" means the permit of a person employed in the operation or supervision of a gaming activity at the official gaming establishment and includes pit bosses, floormen, boxmen, dealers or croupiers, machine mechanics, designated gaming area security employees, count room personnel, cage personnel, slot machine and slot booth personnel, credit and collection personnel, casino

surveillance personnel, and supervisory employees empowered to make discretionary decisions that regulate gaming activities, including shift bosses, credit executives, casino cashier supervisors, gaming managers and assistant managers, and any individual, other than nongaming equipment maintenance personnel, cleaning personnel, waiters, waitresses, and secretaries, whose employment duties require or authorize access to designated gaming areas.

(12) "Game" means any banking or percentage game located exclusively within an official gaming establishment which is played with cards, dice, or any electronic, electrical, or mechanical device or machine for money, property, or any thing of value. Game does not include lottery, bingo, charitable games, raffles, electronic video bingo, pull tabs, cable television bingo, wagering on dog or horse races, sports betting, or wagering on any type of sports event, inclusive but not limited to football, basketball, baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event.

(13) "Gaming device" means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used directly or indirectly in connection with gaming or any game which affects the result of a wager by determining win or loss. The term includes a system for processing information which can alter the normal criteria of random selection, which affects the operation of any game, or which determines the outcome of a game. The term does not include a system or device which affects a game solely by stopping its operation so that the outcome remains undetermined.

(14) "Gaming operations" or "gaming activities" means the offering or conducting of any game or gaming device in accordance with the provisions of this Chapter.

(15) "Gaming operator" means a person licensed by the corporation or authorized by contract with the corporation to conduct gaming operations or gaming activities in accordance with the provisions of this Chapter.

(16) "Gaming supplies" means all materials and supplies other than gaming devices which the corporation finds or determines to be used or expended in gaming operations or activities.

(17) "Gross revenue" means the total of all value received by the casino gaming operator from gaming operations, including cash, checks, vouchers, instruments and anything received in payment for credit extended to a patron for purposes of gaming, and compensation received for conducting any game in which the casino gaming operator is not party to a wager, less the total of all value or amounts paid out as winnings to patrons and credit instruments or checks which are uncollected as determined by rule of the corporation.

(18) "Investigation" or "investigate" means an investigation initiated by and conducted by the corporation or its designated agents.

(19) "Key employee" means an employee or agent of a gaming operator, a licensee, or permittee whether or not a gaming employee who, in the opinion of the corporation, holds or exercises critical or significant

management or operating authority over activities of the operator, licensee, or permittee.

(20) "License" means an authorization issued to a person by or in the name of the corporation to engage in or assist gaming operations or activities regulated by this Chapter.

(21) "Licensee" means any employee, agent, person, or entity who is required to be issued a license under this Chapter or under the rules and regulations of the corporation.

(22) "Major procurement" means the purchase or acquisition of any item, product, or service in the amount of one hundred thousand dollars or more.

(23) "Manufacturer" means any person who manufactures or assembles programs or slot machines or other gaming devices for sale or use in this state.

(24) "Minor procurement" means any purchase, or acquisition of any item, product, or service which is not a major procurement.

(25) "Net gaming proceeds" means gross revenue less the total amount or value paid out to winning patrons or players and uncollected checks and credit instruments if accepted in compliance with corporation rules.

(26) "Official gaming establishment" means the building or facility described in R.S. 27:241 which is located in a parish having a population of four hundred ninety thousand or more persons according to the latest official United States census, at the time a casino operating contract is executed, at which the conducting of casino gaming operations is authorized.

(27) "Permit" means any permit or authorization or application therefor issued pursuant to this Chapter other than a license.

(28) "Permittee" means any employee, agent, person, or entity who is required to be issued a permit under this Chapter or under the rules and regulations of the corporation.

(29) "Person" means any individual, partnership, association, joint stock association or trust, corporation, or other business entity whether incorporated or not.

(30) "President" means the president of the corporation.

(31) "Security" means the protection of information that would or could provide an unfair advantage to any individual involved in the operation of the casino gaming; protection and preservation of the integrity of casino gaming games and operations; as well as measures taken to prevent crimes against a gaming operator or the corporation.

(32) "Slot machine" means any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or, operate the play or operation of which,

whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or any thing of value, whether the payoff is made automatically from the machine or in any other manner.

(33) "Suitable" or "suitability requirements" means the criteria provided for in R.S. 27:234.

(34) "Vendor" means any person who has entered into a major procurement contract with the corporation.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1992, No. 384, § 1.

Acts 1993, No. 540, § 1.

R.S. 4:605.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in R.S. 4:605 as enacted in 1992, quotation marks surrounding the defined terms were deleted in the second sentences of pars. (2) and (12), respectively; and the order of the paragraphs was revised to reflect alphabetical order.

R.S. 4:605 was redesignated as R.S. 27:205 and citations internal to pars. (26) and (33) were changed in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

LIBRARY REFERENCES

1999 Electronic Pocket Part Update

Words and Phrases (Perm.Ed.)

NOTES OF DECISIONS

Gaming operator 1

1. Gaming operator

The definition of "licensee" and "operator" within the provisions of the Riverboat Gaming and Economic Development and Gaming Control Act and the Louisiana Economic Development and Gaming Corporation Law is limited to those persons holding a license to conduct gaming operations and does not include those contractors who perform work for the

construction of the casinos; therefore, a sheriff can contract with the general contractor or a sub- contractor. Op.Atty.Gen. No. 94-361, July 15, 1994.

LSA-R.S. 27:205

LA R.S. 27:205

END OF DOCUMENT

LA R.S. 14:90

LSA-R.S. 14:90

WEST'S LOUISIANA STATUTES ANNOTATED

LOUISIANA REVISED STATUTES

TITLE 14. CRIMINAL LAW

CHAPTER 1. CRIMINAL CODE

PART V. OFFENSES AFFECTING THE PUBLIC MORALS

SUBPART B. OFFENSES AFFECTING GENERAL MORALITY

1. GAMBLING

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 90. Gambling

A. (1)(a) Gambling is the intentional conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit.

(b) Whoever commits the crime of gambling shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both when:

(a) R.S. 14:90 is violated.

(b) Five or more persons are involved who conduct, finance, manage, supervise, direct, or own all or part of an illegal gambling business.

(c) Such business has been in or remains in substantially continuous operation for a period of thirty days or more or, if the continuous operation is for less than thirty days, has a gross revenue of two thousand dollars in any single day.

B. The conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance on board a commercial cruiseship used for the international carriage of passengers whereby a person risks the loss of anything of value in order to realize a profit is not gambling and shall not be suppressed by any law enforcement officer of the state of Louisiana or any of its political subdivisions. This Subsection shall apply only to commercial

cruiseships for the carriage of passengers which are sailing from a port outside the continental limits of the United States to a port in any parish of this state having a population of more than four hundred seventy- five thousand or any such ship which is sailing from a port in such a parish to a port outside the continental limits of the United States, provided that the ship is not docked or anchored but is navigating en route between such ports.

C. The conducting or assisting in the conducting of authorized lottery activities or operations in accordance with provisions of R.S. 47:9000 through 9081 shall not be considered gambling for purposes of this Section.

D. The intentional conducting or assisting in the conducting of gaming activities upon a riverboat as defined and authorized in R.S. 4:501 through R.S. 4:562, whereby a person risks the loss of anything of value in order to realize a profit is not gambling and shall not be suppressed by any state or local law enforcement officer.

E. The intentional conducting or assisting in the conducting of gaming operations at the official gaming establishment as defined and authorized in Chapter 10 of Title 4 [FN1] of the Louisiana Revised Statutes of 1950 shall not constitute gambling.

CREDIT(S)

1986 Main Volume

Amended by Acts 1968, No. 647, § 1, eff. July 20, 1968, at 1:30 P.M.; Acts 1979, No. 633, § 1.

1999 Electronic Pocket Part Update

Amended by Acts 1990, No. 1045, § 2, eff. Oct. 6, 1990; Acts 1991, No. 158, § 1; Acts 1991, No. 289, § 6; Acts 1991, No. 753, § 2, eff. July 18, 1991; Acts 1992, No. 384, § 2, eff. June 18, 1992.

[FN1] In subsec. E, Chapter 10 of Title 4, containing R.S. 4:601 to 4:686, was redesignated in 1996 as Chapter 5 of Title 27, containing R.S. 27:201 to 27:286.

<General Materials (GM) - References, Annotations, or Tables>

REPORTER'S COMMENT

1986 Main Volume

Louisiana statutes covered:

R.S.1870, § 911; Acts 1870, No. 12, § 2 (banking games and banking houses).

Acts 1904, No. 128, §§ 1 to 3 (unlawful operation of pool rooms).

Acts 1908, No. 70, §§ 1, 2 (gambling with dice).

Acts 1886, No. 69, §§ 1, 2 (gambling on public highways).

Acts 1898, No. 57, §§ 1, 2; 1908, No. 107, §§ 1, 2 (mechanical gambling devices).

Acts 1898, No. 16, §§ 1, 2 (dealing in futures).

Acts 1879, No. 44, §§ 1, 2 (lottery).

Acts 1934 (2nd E.S.), No. 12, §§ 1, 2 (lottery).

Acts 1892, No. 25, §§ 1 to 4 (prohibition of lotteries).

Acts 1894, No. 169, § 12 (penalty for operating lotteries).

Acts 1902, No. 107, § 12; 1914, No. 280, § 1 (punishment for conducting a lottery).

Article XIX, § 8, Const. 1921 denounces gambling as a vice and directs the legislature to pass laws to suppress it.

#### Scope:

The evil resulting from gambling which this section is intended to curb is two-fold: (1) the loss of needed funds by the heads of families resulting in deprivation for the wives, children and other dependents, and (2) danger of minors becoming addicted to gambling. It is well settled that it is within the state's police power to suppress gambling. *Comm. v. Kentucky Jockey Club*, 238 Ky. 739, 38 S.W.2d 987 (1931); *People v. Monroe*, 349 Ill. 270, 182 N.E. 439 (1932). In enacting such legislation there is no invasion of constitutional rights, unless the restraints imposed are unreasonable. *Booth v. Illinois*, 184 U.S. 425, 22 S.Ct. 425, 46 L.Ed. 623 (1902) (prohibition against options to buy or sell grain or other commodities at a future time does not invade the liberty granted to citizens by the U.S. Const. 14th Amend.); *Ah Sin v. Wittman*, 198 U.S. 500, 25 S.Ct. 756, 49 L.Ed. 1142 (1905) (ordinance which made it unlawful to visit or resort to a barred or barricaded house or room where gambling implements are exhibited or exposed to view does not deprive anyone of his liberty without due process of law).

No attempt has been made to punish the patrons of gambling establishments because of the apparent impossibility of enforcement. Only those operating gambling devices as a business and those assisting directly are covered.

#### As a business:

The phrase "as a business" includes cases where gambling may take place only from time to time and yet be profitable to the operator although not his main line of business.

#### Game:

The word "game" has been given a very comprehensive and non-technical meaning. It has been held to extend to physical contests, whether of man or beast, when practiced for the purpose of deciding wagers, or for the purpose of diversion as well as to games of hazard or skill by

means of instruments or devices. *Boughner v. Meyer*, 5 Colo. 71, 40 Am.Rep. 139 (1879). It embraces every contrivance or institution, whether public or private, of which the object is to furnish sport, recreation, or amusement, on which money or any other article of value can be won or lost by the result of such contrivance or institution. *James v. State*, 113 P. 226 (Okl.Cr.App.1910). The section is intended to apply to all forms of organized gambling whatsoever, except those legalized by special statutes. Perhaps the most reprehensible of them all is the lottery or so called numbers game, now widely operated, particularly in the city of New Orleans. This form of gambling preys principally upon those in necessitous circumstances who hope in vain to obtain much for small outlay. Then there are dice and card games, roulette wheels, bird cages, dog racing, horse racing, racing of any sort as a gambling device, slot machines, pin ball machines, iron claw machines, football pools, betting on outcome of other athletic events, and cock fights.

Anything of value:

"Anything of value" in most instances is money. It is patent, however, that if this section is to be limited to money, many subterfuges would be employed, such as chips and other representations of or receipts for currency. Furthermore, articles valuable in themselves could well be used. The words "anything of value" are included to cover every possibility of loss.

Insurance companies:

The section is obviously not intended to apply to insurance contracts although they are aleatory in nature. See La. Civil Code of 1870, Art. 2982. See also French Civil Code of 1804, Art. 1964 to the effect that aleatory contracts include contracts of insurance and other games of chance.

Assisting in the conducting of such business:

This provision is intended to cover those employees of the gambling houses where those employees are directly assisting in the conducting of the business. Thus a cook in a kitchen of such an establishment would not be covered for the section is leveled at those assisting directly in the conducting of such business.

#### HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Acts 1990, No. 888, § 1, effective July 25, 1990, authorized the governor to appoint an Indian Gaming Commission and to approve and sign Indian gaming compacts with federally recognized Indian tribes.

Acts 1990, No. 1045, § 1 added subsec. C relating to authorized lottery activities. Section 4 of Acts 1990, No. 1045 provided:

"The provisions of this Act shall be effective only upon approval of the voters of a proposed constitutional amendment authorizing the creation and operation of a state lottery."

Pursuant to Acts 1990, No. 1097, § 1, a proposal to amend Const.Art. 12, § 6 to allow creation of a state lottery was submitted to the electors of the state of Louisiana and ratified by them on October 6, 1990,

Acts 1991, No. 158, § 1 designated the existing subsec. A as par. A(1), with subpars. A(1)(a), and A(1)(b) therein also designated; and added par. A(2).

Acts 1991, No. 289, § 6, in subsec. B, substituted "four hundred seventy-five thousand" for "five hundred thousand" following "a population of more than" in the second sentence.

Acts 1991, No. 753, § 2 substituted "Gaming" for "Gambling" as the section heading and added subsec. D regarding riverboat gambling.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended by Acts 1991, No. 753, the section heading "Gaming" was changed to "Gambling".

The 1992 amendment added subsec. E relating to the conducting of certain gaming operations at the official gaming establishment (casino) as not constituting gambling.

Acts 1993, No. 817, § 1 amends the legislation relating to the Indian Gaming Commission and Indian gaming compacts (Acts 1990, No. 888; see 1990 Legislation note, ante) to provide with regard to permitted gaming activities conducted by federally recognized tribes on Indian reservation lands.

House Concurrent Resolution No. 67 of the 1995 Regular Session urges and requests the governing bodies of the sovereign nations of the Chitimacha, Coushatta, and Tunica Biloxi Indian tribes to provide goods and services at discounted rates only to their tribal members and not obtain an unfair trade advantage over Louisiana businesses; urges and requests the governor, as authorized by Act No. 888 of 1990 as amended by Acts No. 817 of 1993 (see 1990 and 1993 Legislation notes, ante) to renegotiate the gaming compacts between Louisiana and the Chitimacha, Coushatta, and Tunica Biloxi tribes to provide an increased financial benefit to the state through the conducting of gaming activities by these nations; and urges and requests the Louisiana congressional delegation to evaluate the need for amendments to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., to eliminate unfair trade advantages.

Acts 1996, 1st Ex.Sess., No. 7, § 1 enacts Title 27, Louisiana Gaming Control Law, of the Louisiana Revised Statutes of 1950. Chapter 2 of Title 27, R.S. 27:11 to 27:26, creates the Louisiana Gaming Control Board. R.S. 27:15(B)(1) provides in part: "the board shall have all regulatory, enforcement, and supervisory authority which exists in the state as to gaming on Indian lands as provided in the provisions of Act No. 888 of the 1990 Regular Session of the Legislature and Act No. 817 of the 1993 Regular Session of the Legislature."

House Concurrent Resolution No. 7 of the First Extraordinary Session of 1996 urges and requests the governing bodies of the sovereign nations of the Chitimacha, Coushatta, and Tunica Biloxi Indian tribes

to provide goods and services at discounted rates only to their tribal members and not obtain an unfair trade advantage over Louisiana businesses; urges and requests Governor Murphy J. Foster to refrain from entering any new gaming compacts and to renegotiate the current gaming compacts; and urges and requests the Louisiana congressional delegation to evaluate the need for amendments to the Indian Gaming Regulatory Act to eliminate unfair advantages.

1986 Main Volume

Source:

Acts 1942, No. 43, § 1, Art. 90.

The 1968 amendment reduced the maximum imprisonment term from 1 year to 6 months.

Section 5 of Acts 1968, No. 647 (§ 1 of which amended this section) provides as follows:

"This Act amends the penalty clauses of the crimes covered herein. Upon the effective date of this Act it shall govern all prosecutions regardless of when the offense was committed, for crimes where the penalty is reduced.

"Where the crime has been changed to a felony by amendment of the penalty clause, the amendment shall only be effective as to crimes committed after this Act becomes effective; and such offenses, when committed before this Act becomes effective, shall be governed by law in effect at the time the crime was committed."

The 1979 amendment designated the prior subject matter of this section as subsec. A and added subsec. B, concerning cruise ships.

Prior Laws:

Acts 1870, No. 12.  
Acts 1894, No. 169.  
Acts 1898, No. 57.  
Acts 1902, No. 107.  
Acts 1904, No. 128.  
Acts 1914, No. 280.  
Acts 1926, No. 17.  
Acts 1934, 2d Ex.Sess., No. 12.

#### CONSTITUTIONAL PROVISIONS

1986 Main Volume

Const. Art. 12, § 6 provides:

"Neither the state nor any of its political subdivisions shall conduct a lottery. Gambling shall be defined by and suppressed by the legislature."

#### CROSS REFERENCES

Charitable Raffles, Bingo and Keno Licensing, see R.S. 33:4861.1 et seq.

Gaming Control Board, regulatory, enforcement, and supervisory authority as to gaming on Indian lands, see R.S. 27:15.

Gambling devices, destruction of, see R.S. 15:31.

Gambling houses, see R.S. 13:4721 et seq.

Game regulations, see R.S. 4:10 et seq.

Gaming compacts, state/tribal compacts with federally recognized Indian tribes, see R.S. 46:2302.

Horse racing, see R.S. 4:141 et seq.

Income tax, deduction of gambling losses, see R.S. 47:71.

Municipalities and parishes, police power, see R.S. 33:4851 et seq.

Regulation of gaming equipment, see R.S. 47:7001 et seq.

Search warrants, see C.Cr.P. art. 161.

Vagrancy of gamblers, see R.S. 14:107.

#### LAW REVIEW AND JOURNAL COMMENTARIES

Accusation by codal name and article number. Ralph Slovenko, 32 Tul.L.Rev. 59 (1957).

Chance and skill as elements of gambling in Louisiana. 30 Tul.L.Rev. 129 (1955).

Comparison of the Criminal Code with prior criminal law. Dale E. Bennett, 5 La.L.Rev. 6, 42 (1942).

Gaming and betting. 22 Tul.L.Rev. 315, 319 (1947).

Home rule and local ordinances defining gambling. 38 La.L.Rev. 1108 (1978).

Indictments, forms of. Dale E. Bennett, 11 La.L.Rev. 238 (1951).

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1986 Main Volume

Commerce k1 et seq.

Gaming k62 et seq.

Lotteries k20 et seq.

C.J.S. Commerce § 1 et seq.

C.J.S. Gaming §§ 1, 80 et seq.

C.J.S. Lotteries §§ 20, 28.

#### UNITED STATES CODE ANNOTATED

Indian Gaming Regulatory Act, see 25 U.S.C.A. § 2701 et seq.

## NOTES OF DECISIONS

- In general 4
- Bank night scheme, lottery 21
- Banking games
  - Banking games - Generally 27
  - Banking games - Validity of prior laws 3
- Bill of particulars 35
- Business reports, filing of 29
- Civil actions 10.5
- Clubs and organizations 15
- Conduct of gambling business 11.5
- Contest in general 12
- Contrivance in general 12
- Dissemination of information 28
- Distribution of prizes by chance, lottery 19
- Drawings, lottery 18
- Enforcement 7
- Exemptions 10
- Fact questions 37
- Filing of business reports 29
- Football pools, lottery 18.6
- Frequent flyer program, lottery 21.5
- Gambling between individuals 14
- Game, contest, lottery or contrivance, in general 12
- Games, lottery 20
- Horse racing 25, 26
  - Horse racing - In general 25
  - Horse racing - Pool rooms and turf exchanges 26
- Indians 13.5
- Indictment and information 31-34
  - Indictment and information - In general 31
  - Indictment and information - Statute citation 32
  - Indictment and information - Statutory language 33
  - Indictment and information - Sufficiency of indictment and information 34
- Instructions 38
- Jurisdiction, review 43
- Jurisdiction and venue 30
- Jury or fact questions 37
- Legislative powers 6
- Licensing 9
- Lottery
  - Lottery - In general 16
  - Lottery - Bank night scheme 21
  - Lottery - Distribution of prizes by chance 19
  - Lottery - Drawings 18
  - Lottery - Football pools 18.6
  - Lottery - Frequent flyer program 21.5
  - Lottery - Game, contest, lottery or contrivance in general 12
  - Lottery - Games 20
  - Lottery - Machines 22
  - Lottery - Raffles 18.5
  - Lottery - Trade or merchandizing promotions 17
  - Lottery - Validity of prior laws 2
- Machines 22-24

- Machines - In general 23
- Machines - Lottery 22
- Machines - Slot machines 24      Nature and elements of offense 11
- Ordinances 8
- Organizations 15
- Persons liable 13
- Pool rooms and turf exchanges 26
- Prescription 36
- Purpose of law 5
- Raffles, lottery 18.5
- Review 42, 43
  - Review - In general 42
  - Review - Jurisdiction 43
- Sentence and punishment 41
- Slot machines 24
- Statute citation, indictment and information 32
- Statutory language, indictment and information 33
- Sufficiency of evidence 39
- Sufficiency of indictment and information 34
- Trade or merchandizing promotions, lottery 17
- Validity 1/2
- Validity of prior laws 1-3
  - Validity of prior laws - In general 1
  - Validity of prior laws - Banking games 3
  - Validity of prior laws - Lottery 2
- Venue and jurisdiction 30
- Verdict 40

1/2. Validity

Temporary restraining order, preventing district attorney from investigating dockside riverboat gambling, was erroneously issued in absence of showing that gambling statute was manifestly unconstitutional or that district attorney was abusing powers of office by conducting harassing investigation; appropriate remedy for contention that riverboat gambling was exempt under gambling statute was either fair trial or pretrial motion. Board of Com'rs of Orleans Levee Dist. v. Connick, Sup.1995, 94-3161 (La. 3/9/95), 654 So.2d 1073.

Declaratory judgment petition seeking preliminary determination that dockside riverboat gambling did not violate gambling statute failed to state claim in absence of extraordinary or overriding constitutional concerns that justified circumvention of criminal justice process. Board of Com'rs of Orleans Levee Dist. v. Connick, Sup.1995, 94-3161 (La. 3/9/95), 654 So.2d 1073.

Statutes authorizing licensing of gaming operations did not violate constitutional mandate to suppress gambling; legislature was entitled to define gambling and to exempt from that definition certain forms of gambling not prohibited by Constitution. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations did not unconstitutionally delegate legislative authority to executive branch of government. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations, which restricted collection of local taxes, did not unconstitutionally abrogate taxing powers granted to city of New Orleans pursuant to its home rule charter; gaming statutes were enacted pursuant to valid exercise of state's police power, and legislature was constitutionally empowered by general law to deny or revoke delegation of function or power to home rule government when necessary to prevent abridgment of state's police power. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations were not unconstitutional "local" or "special" laws, even though their immediate application was limited as to parties and localities; issue was matter of state-wide concern, and legislature was entitled to determine that single facility or type of facility within state was in state's best interest. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

The statutory exemptions for charitable gambling and bona fide fairs and festivals did not render unconstitutional the entire legislative scheme regulating gambling by creating a question as to whether they created a blanket exception to all gambling statutes, where the exceptions were limited to "this section" and "the provisions of" the game regulations for noncharitable carnivals. *Knights of Columbus, Chapter No. 2409 v. Louisiana Dept. of Public Safety & Corrections, Div. of State Police*, Sup.1989, 548 So.2d 936.

#### 1. Validity of prior laws--In general

Article 90 of the former Criminal Code (see, now, this section) denouncing gambling and defining it as the intentional conducting or directly assisting in the conducting of the business of any game, contest, lottery or contrivance whereby a person risks the loss of anything of value in order to realize a profit is not invalid for uncertainty. *State v. Davis*, Sup.1945, 208 La. 954, 23 So.2d 801.

Former Cr.Code, art. 90 (see, now, this section) defining gambling as "intentional conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit" was not unconstitutional as being vague or indefinite because the various ways and means by which gambling could be done and different kinds of games and contests or contrivances with which it could be done were innumerable. *State v. Varnado*, Sup.1944, 208 La. 319, 23 So.2d 106.

Provision in body of Acts 1926, No. 17, § 1 (see, now, this section), that the "conducting," "operating," or "participating" in a card game in which money, or representatives of money, is bet or hazarded within five miles of state normal college is "prohibited," was not unconstitutional as broader than its title, which was to "prohibit" gambling with cards for money or representatives of money within five miles of such college. *State v. Mahfouz*, Sup.1935, 181 La. 23, 158 So. 609.

The text of Acts 1898, p. 81, No. 57, (see, now, this section) was not broader than the title, where it provided for the regulation of the use of slot machines, though the title did not declare that a penalty shall be imposed on the owner for allowing a minor to play the machine while

the act did so provide. State v. Abrams, Sup.1908, 121 La. 550, 46 So. 623.

Acts 1904, No. 128 (see, now, this section), forbidding the opening and operation of poolrooms, was not unconstitutional as containing more than one subject, in violation of Const.1898, Art. 31 (see, now, Const.Art. 3, § 15). State v. Maloney, Sup.1905, 115 La. 498, 39 So. 539.

## 2. ---- Lottery, validity of prior laws

Acts 1934, 2d Ex.Sess., No. 12 (see, now, this section), attempting to license marble tables violated constitutional condemnation of gambling and lotteries in so far as statute related to licenses on tables used as gambling schemes or devices for lotteries. State v. Barbee, Sup.1937, 187 La. 529, 175 So. 50.

Acts 1934, 2d Ex.Sess. No. 12 (see, now, this section), prohibiting lotteries, sale of lottery tickets, and keeping in or about any premises of lottery offices, and permitting imposition of fine of not less than \$200 nor more than \$3,000 or imprisonment of not less than one year nor more than three years, or both at discretion of court, was not unconstitutional as imposing "cruel and unusual punishment". State v. Staub, Sup.1935, 182 La. 1040, 162 So. 766.

Acts 1894, No. 169 (see, now, this section) was not invalid for failure to define the word "lottery." City of Shreveport v. Kahn, Sup.1914, 136 La. 371, 67 So. 35.

## 3. ---- Banking games, validity of prior laws

Acts 1870, No. 12 (see, now, this section), prohibiting keeping of a banking game was constitutional. State v. Florane, Sup.1934, 179 La. 453, 154 So. 417.

Acts 1870, No. 12 (see, now, this section), providing that "whoever shall keep a banking game or banking house, at which money or anything representing money \* \* \* shall be bet or hazarded," etc., sufficiently defined a banking game or banking house. State v. Kilshaw, Sup.1925, 158 La. 203, 103 So. 740.

## 4. In general

Acts 1870, p. 38, No. 12 (see, now, this section), relating to gaming, being similar to repealed Act 1855, the decisions rendered under such act were authoritative in a prosecution under the present act. State v. Behan, Sup.1904, 113 La. 754, 37 So. 714.

Violations of La. R.S. 14:90 which prohibits gambling as a business and 14:90.2 which prohibits gambling in public must be determined on a case by case basis on its own facts. Op.Atty.Gen. No. 94-178, June 29, 1994.

Random selection of a mortgage loan for cancellation as a publicity scheme by a savings bank does not violate the prohibition against gambling, as the customer risks nothing of value to participate. Op.Atty.Gen. No. 89-386, July 6, 1989.

The participation by the Police Jury or any of its employees or agents, in the selling of tickets or in any conducting or assisting in conducting a raffle is strictly prohibited by the Raffle Law, the Criminal Code and the Louisiana Constitution. Op.Atty.Gen.No. 85-693A, Oct. 15, 1985.

All gambling is prohibited in Louisiana except licensed gambling at Race Tracks under the supervision of the Louisiana State Racing Commission. Op.Atty.Gen., 1944-46, p. 363.

#### 5. Purpose of law

Former Cr.Code, art. 90 (see, now, this section) denouncing gambling was intended to apply to all forms of organized gambling except those legalized by special statutes. State v. Davis, Sup.1945, 208 La. 954, 23 So.2d 801.

Former Cr.Code, art. 90 (see, now, this section) was designed to eradicate the evil of commercialized gambling, and did not penalize players. Op.Atty.Gen., 1948-50, p. 71.

#### 6. Legislative powers

Suppression or regulation of gambling is a legitimate state interest; legislative determination in defining and prescribing means of suppression constitutes appropriate exercise of police power for protection of the public. Theriot v. Terrebonne Parish Police Jury, Sup.1983, 436 So.2d 515.

Under provision of Const.1921, Art. 19, § 8 (see, now, Const. Art. 12, § 6) that gambling is a vice and that Legislature shall pass laws to suppress it, Legislature, in the exercise of its police power, has power to entirely prohibit pari-mutuel wagering or the bookmaking form of gambling on horse races or could provide for the limited licensing thereof without such act being invalid as discriminatory, since the business of gambling was not one that demanded the consideration accorded to vocations which were necessary or useful to community or harmless in themselves and such business could be lawfully discriminated against. State v. Saia, Sup.1947, 212 La. 868, 33 So.2d 665.

#### 7. Enforcement

Governor's action in directing that police officers of the department of state police act within the City of New Orleans for the purpose of suppressing commercialized gambling therein was not a violation of the "home rule" provision of the Constitution [Const.1921, Art. 14, § 22 (see, now, Const. Art. 6, §§ 3, 4) ]. Fernandez v. Alford, Sup.1943, 203 La. 111, 13 So.2d 483.

#### 8. Ordinances

When defendant conducted business by displaying on a counter a number of envelopes containing "Enterprise Tea" of the value of five cents, some of the envelopes contained, besides the tea, tickets entitling the holder to articles of value called "prizes" customers on payment of

five cents were allowed to choose an envelope from those exposed before them, and, if such envelope contained a ticket, the article called for by it was handed to the buyer by defendant, such was a violation of New Orleans Ord. No. 92, prohibiting lotteries. *State v. Boneil*, 1890, 42 La. Ann. 1207, 8 So. 300; *State v. Boneil*, 1890, 42 La. Ann. 1110, 8 So. 298, 21 Am. St. Rep. 413, 10 L. R. A. 60.

Ordinance prohibiting certain gambling with cards was unconstitutional where its proscription of nonbusiness conduct as gambling exceeded legislative definition in state gambling statute, R.S. 14:90. (Per *Lemmon, J.*, joined by two Justices, with two Justices concurring.) *State ex rel. Corbello v. Bond*, Sup. 1983, 441 So. 2d 742.

Shreveport ordinance, which was authorized by city charter, and which included definition of "gambling," established by legislature, that is, certain conduct when conducted "as a business," but which went beyond legislature's definition and prohibited special activities which would not fall within classification of "business," was inconsistent with LSA-Const., Art. 12, § 6, stating that gambling was to be defined by and suppressed by legislature, and thus was unconstitutional. *City of Shreveport v. Kaufman*, Sup. 1977, 353 So. 2d 995.

Under charter of City of New Orleans, Commission Council could make criminal all lotteries despite fact that legislature had imposed criminal responsibility only where lottery was operated as a business. *City of New Orleans v. Stone*, Sup. 1952, 221 La. 133, 58 So. 2d 736.

Under R.S. 33:4851, power of municipalities to define gambling in ordinances has been withheld and this section's definition of "gambling," which requires that gambling must be conducted as a business in order to become a misdemeanor or a crime controls. *City of Alexandria v. La Combe*, Sup. 1952, 220 La. 618, 57 So. 2d 206.

A municipality has no right to extend or enlarge upon statutory definition of gambling and enact a law defining gambling as intentional betting of anything of value at a card game without reference as to how the same shall be conducted or operated. *City of Alexandria v. La Combe*, Sup. 1952, 220 La. 618, 57 So. 2d 206.

A town charter which contained no delegation of power to suppress gambling, but conferred merely the right "to remove nuisances," did not warrant the enactment of an ordinance penalizing the playing of cards for money in any and all places within the corporate limits particularly in view of fact that playing cards for money had not been denounced as unlawful by the statutes except when such gambling was carried on in or in view of a public highway or street. *Town of Marksville v. Worthy*, Sup. 1909, 123 La. 432, 49 So. 11.

The New Orleans city ordinance making it unlawful to engage in the operation of slot machines, and punishing the violator with fine and imprisonment, was not inconsistent with or repugnant to Acts 1898, No. 57, § 4 (see, now, this section), prohibiting gambling with slot machines for money prizes, and constituting such an act a misdemeanor, since the Legislature could delegate to municipalities power to adopt ordinances on matters of local importance, though general statutes existed relating to the same subject. *City of New Orleans v. Collins*, Sup. 1900, 52 La. Ann. 973, 27 So. 532.

An ordinance relative to lotteries, and providing that it shall not be necessary to prove the actual sale of tickets, but any device used to indicate that tickets are kept for sale, or to give information as to the result of any drawing, shall be taken as proof of the keeping of a lottery office, was not invalid as making the holder of a ticket guilty without guilty knowledge or intent. State v. Voss, Sup.1897, 49 La. Ann. 444, 21 So. 596.

The game ordinarily known as "pin pool," in which the proprietor charged each player a certain amount for the privilege of playing, and in which the winner took the amount put in by the other players as a stake, the proprietor receiving nothing of the winnings, was not a gambling game, in the sense of the constitution and laws; and a city ordinance denouncing it as such was illegal. State v. Quaid, Sup.1891, 43 La. Ann. 1076, 10 So. 183.

An ordinance of a city licensing gambling rooms, and receipts for license fees paid thereunder, are no defense to an indictment for keeping or playing the game contrary to statute (Acts 1835, p. 134); the statutes of the state cannot be repealed by municipalities in that manner. State v. Caldwell, 1848, 3 La. Ann. 435.

Former Cr. Code, art. 90 (see, now, this section) did not prevent a city from enacting an ordinance defining a "gambling joint" as a public nuisance. Op. Atty. Gen., 1948-50, p. 63.

#### 9. Licensing

Under Const. 1921, Art. 19, § 8 (see, now, Const. Art. 12, § 6), condemning gambling and lotteries, and under Acts 1934, 2d Ex. Sess. No. 12 (see, now, this section), prohibiting lotteries, gambling and operation of lottery may not be licensed as lawful occupations. State v. Barbee, Sup. 1937, 187 La. 529, 175 So. 50.

A municipality cannot prohibit display or use of non-pay-off pinball machine because such machine did not violate former Cr. Code, art. 90 (see, now, this section), but such machines could be placed on tax rolls, and municipality could also license their operation within such municipality, the amount of the license not to exceed that imposed by state. Op. Atty. Gen., 1946-48, p. 493.

Municipal corporations could not license gambling or condone its operation in any other way, since gambling was a crime under Const. 1921 Art. 19, § 8 (see, now, Const. Art. 12, § 6) and (former Cr. Code, art. 90; see, now, this section) 14:90. Op. Atty. Gen., 1944-46, p. 109.

In view of decisions of federal courts declaring mint vending machines which occasionally pay out checks, which owners of the machines might cash, were gambling devices, and in view of the fact that the Supreme Court of the state had never passed on question, no department of the state had the legal right to grant a license for operation of such machines. Op. Atty. Gen., 1942-44, p. 241.

A "mechanical claws" machine utilizing an iron claw which, on payment of a consideration setting the claw in motion, sometimes grabs a prize was a game of chance, and licensing of operation of such machine

permitted under Acts 1938, No. 429 (see, now, R.S. 47:375) was violative of Const.1921, Art. 19, § 8 (see, now, Const. Art. 12, § 6). Op.Atty.Gen., 1938-40, p. 145.

#### 10. Exemptions

Louisiana could not apply this section to Indians conducting unlicensed bingo game in Indian country even to limited extent that they allowed non-Indians to participate. Langley v. Ryder, W.D.La.1985, 602 F.Supp. 335.

Charitable organizations, exempt under R.S. 33:4861.4 from prohibition in R.S. 14:90, in conducting a "Las Vegas Night" must be licensed by the Louisiana State Police Charitable Gaming Division, and persons furnishing supplies and equipment for the conduct of such activity must also be licensed by the Gaming Division under R.S. 33:4861.19. Op.Atty.Gen., No. 87-169, March 2, 1987.

#### 10.5. Civil actions

Plaintiff was liable to defendant for \$1,300 defendant loaned plaintiff, although plaintiff used money for gambling; defendant and another witness testified that plaintiff asked for loan and since defendant was not involved in gambling transaction for which plaintiff requested money, loan was not a prohibited gambling contract. Lauer v. Catalanotto, App. 5 Cir.1988, 522 So.2d 656.

Fact that gambling took place in Nevada where it was legal did not grant plaintiff right to bring action against defendant in Louisiana to enforce alleged gambling contract, under which plaintiff and defendant were to go to Las Vegas and split winnings and losses. Lauer v. Catalanotto, App. 5 Cir.1988, 522 So.2d 656.

#### 11. Nature and elements of offense

Evidence, including testimony of players, was sufficient to prove that game of blackjack was being conducted as a business and thus to prove offense of gambling by defendant, whom police found seated at dealer's position at blackjack table. State v. Songy, App. 5 Cir.1991, 588 So.2d 184.

The business of "gambling" as defined in former Cr.Code, art. 90 (see, now, this section) relating thereto neither included nor contemplated as an offense the mere possession of gambling paraphernalia. State v. Schimpf, Sup.1943, 203 La. 835, 14 So.2d 676.

The word "gambling," as used in Acts 1904, No. 178 (see, now, this section), denouncing the same, means playing or gaming for money or other stakes; and draw poker is a gambling game, pure and simple, more widely recognized as such than any other game known to the American people. City of Lake Charles v. Marcantel, Sup.1910, 125 La. 170, 51 So. 106.

The profit referred to in this section is the profit to the player and not the profit to the operator. Op.Atty.Gen., 1956-58, p. 130.

To violate this section, it is necessary that the player risk something of value in order to realize a profit. Op.Atty.Gen., Oct. 13, 1955.

#### 11.5. Conduct of gambling business

Unless licensed pursuant to any of the Chapters exempted from the provisions of La.R.S. 14:90, or pursuant to La.R.S. 33:4861.1 et seq., the intentional conducting of any game of chance whereby an organization retains a percentage of a cash prize would constitute gambling. Op.Atty.Gen. No. 95-33, March 21, 1995.

Persons who provide a shuttle service for the placement of lottery bets in another place for persons who live in Louisiana and who charge a fee for their services are in violation of La.R.S. 14:90. Op.Atty.Gen., No. 85-471, June 18, 1985.

A lounge operator, who aids or assists in the conduct of a game of chance on his premises, can be held to be in violation of La.R.S. 14:90 if the gambling results in profit to the operator although it may not be his main line of business. Op.Atty.Gen., No. 85-348, June 18, 1985.

#### 12. Game, contest, lottery or contrivance, in general

"Keno" and "bingo" are games within meaning of this section. Op.Atty.Gen., 1956-58, p. 130.

A plan whereby organization desired to show a moving picture for admission price of \$1.00 and give away an automobile, violated this section. Op.Atty.Gen., Nov. 28, 1955.

A plan whereby each person, on entering baseball park, was given a score card to write in the total score of both teams, and whereby the person who wrote in the correct totals received an award of \$250, violated this section. Op.Atty.Gen., Nov. 28, 1955.

Shooting contest in which participants were required to pay one dollar for each shot and in which, after enough dollars had been paid to cover price of beef furnished, choice quarter of beef was awarded to participant making best shot, with second, third, and fourth choice going to second, third, and fourth best shots, respectively, and with fifth best shot being awarded hide and tallow of beef, did not constitute a lottery, since award was based upon skill of marksmen, and contest was one to promote skill in use of arms. Op.Atty.Gen., 1952-54, p. 57.

This section prohibits the operation of bingo game by radio. Op.Atty.Gen., 1950-52, p. 24.

Gaming, when employed to promote skill in use of arms, such as exercise of gun, and foot, horse and chariot racing, is not prohibited in Louisiana. Op.Atty.Gen., 1932-34, p. 206.

#### 13. Persons liable

If any pay-offs should be made to players who won free plays on machine, which had most of the general characteristics of a slot

machine, but which had no automatic pay-off device, the one making the payments would be conducting a lottery in violation of this section. Op.Atty.Gen., March 12, 1956.

Night club operator's permitting patron to play bingo in club would be assisting in conduct of a lottery in violation of former Cr.Code, art. 90 (see, now, this section). Op.Atty.Gen., 1952-54, p. 56.

Whether owner of a place of business violated former Cr.Code, art. 90, (see, now, this section) by conducting or permitting the playing of a dice game in such a place of business was determinative by question whether such particular person was conducting or assisting in the conducting of the dice game as a business. Op.Atty.Gen., 1952-54, p. 58.

A charge by the hour for use of club facilities and gambling paraphernalia by a club operated for the public was a violation of R.S. 14:90 et seq. and R.S. 13:4721 on part of owners and operators of club and not on part of members participating. Op.Atty.Gen., 1952-54, p. 52.

Where proprietor furnished a multigroove phonograph record having a number of recordings, each of which purported to be a word picture of a horse race, each with a different result, and patrons played record by placing a nickel in device and patrons bet among themselves on outcome of race, neither proprietor nor patrons could be convicted under former Cr.Code, art. 90 (see, now, this section), but if proprietor furnished the device to the patrons with knowledge of their intention to use it for betting, and proprietor received five cents for each time that record was played, proprietor would be guilty of conducting a lottery. Op.Atty.Gen., 1948-50, p. 71.

Operator of dance hall or night club who conducted or assisted in conducting of a "bingo" game by selling the bingo card and distributing proceeds from such sale in cash or prizes, even though he retained nothing from the sale, violated Former Cr.Code, art. 90 (see, now, this section). Op.Atty.Gen., 1946-48, p. 133.

### 13.5. Indians

Coushatta Tribe of Louisiana and Tunica-Biloxi Tribe of Louisiana have authority and capacity to enter into gaming compacts with state of Louisiana. Op.Atty.Gen., No. 92-167, April 3, 1992.

According to United States Department of Interior, Chairman of Coushatta Tribe of Louisiana and Chairman of Tribal Counsel of Tunica-Biloxi Tribe of Louisiana had authority to represent their tribes for purpose of negotiating and entering into compact for Class III gaming on their Indian lands. Op.Atty.Gen., No. 92-167, April 3, 1992.

### 14. Gambling between individuals

This section prohibits gambling as a business but does not prohibit gambling between individuals. *Gandolfo v. Louisiana State Racing Com'n*, Sup.1954, 227 La. 45, 78 So.2d 504.

Louisiana's criminal prohibition against gambling does not prevent a steamship which carries overnight passengers for hire from allowing paying passengers on board to play poker for cash stakes when the players receive no special benefits, advantages, or emoluments from the company and neither the company nor anyone except the game participants receives any portion of the stakes. Op.Atty.Gen.No. 85-887, Jan. 3, 1986.

Former Cr.Code, art. 90 (see, now, this section) did not prohibit wagering in a public place where no one is backing the game and where there is no cut taken out of the pot, even though customers could, from time to time, purchase refreshments from the proprietor. Op.Atty.Gen., 1952-54, p. 50.

The playing of dice in a private home was not a violation of this section. Op.Atty.Gen., 1952-54, p. 58.

The playing of bingo in a private home was not a violation of this section. Op.Atty.Gen., 1952-54, p. 58.

Former Cr.Code art. 90 (see, now, this section) was aimed at commercialized gambling, where such gambling was conducted as a business, and did not prohibit individuals or groups of individuals from playing cards for money in their own homes. Op.Atty.Gen., 1946-48, p. 132.

Playing of poker in private home or private club did not violate former Cr.Code, art. 90 (see, now, this section) unless someone received a benefit by such wagering other than players. Op.Atty.Gen., 1946-48, p. 141.

#### 15. Clubs and organizations

Religious, civic, fraternal, or similar organizations could not hold bingo games or raffles, regardless of the purpose for which the proceeds were to be used. Op.Atty.Gen., 1956-58, p. 130.

Gambling in chartered clubs by individuals for their own pleasure, and not operated by anyone as a business, was not within the scope of former Cr.Code, art. 90 (see, now, this section). Op.Atty.Gen., 1948-50, p. 72.

Public schools could not conduct games of "bingo" and "cake walk" in order to obtain athletic equipment without violating former Cr.Code, art. 90 (see, now, this section), and if children under 17 years of age were present, they would also violate former Cr.Code, art. 92 (see, now, R.S. 14:92) relative to contributing to delinquency of juveniles. Op.Atty.Gen., 1946-48, p. 126.

Club which obtained 10% discount on chips sold to its members to be used as representative of money in games of chance violated former Cr.Code, art. 90 (see, now, this section). Op.Atty.Gen., 1946-48, p. 134.

Practice of licensed life insurance organization of permitting some of its members and nonmembers to use its hall on Sunday to play cards for money, charging a fee used in part to pay janitor and with remainder

kept by corporation, constituted a violation of former Cr.Code, art. 90 (see, now, this section). Op.Atty.Gen., 1944-46, p. 114.

#### 16. Lottery--In general

A "lottery", within Acts 1894, No. 169 (see, now, this section), denouncing as a crime the running of a lottery was a distribution of prizes and blanks by chance, a game of hazard in which small sums were ventured for the chance of obtaining a larger value, or a scheme for distribution of prizes by lot or chance, or a scheme whereby one on paying money or other valuable thing to another became entitled to receive from him such a return in value or nothing as some formula of chance might determine. *Doskey v. United Theatres*, App.1942, 11 So.2d 276, rehearing denied 11 So.2d 617.

A "lottery" is a scheme for the distribution of prizes by chance and includes the "gambling device" commonly called a "punch board." *City of Shreveport v. Kahn*, Sup.1914, 136 La. 371, 67 So. 35.

The elements necessary for a lottery are: consideration, prize, and award of prize by chance. Op.Atty.Gen., 1956-58, p. 151; Op.Atty.Gen., 1956-58, p. 130; Op.Atty.Gen., April 27, 1955.

A "raffle" is a lottery, so long as there is present the elements of a consideration, a prize, and an award of a prize by chance. Op.Atty.Gen., 1956- 58, p. 130.

Lotteries are prohibited in the state. Op.Atty.Gen., 1942-44, p. 743.

Lottery tickets of sweepstake variety were prohibited under Acts 1894, No. 169, as amended by Acts 1902, No. 107, and Acts 1914, No. 280 (see, now, this section). Op.Atty.Gen., 1934-36, p. 176.

Under Acts 1894, No. 169 (see, now, this section) and Const.1921, Art. 19, § 8 (see, now, Const. Art. 12, § 6), it was illegal to conduct lottery in state whether such lottery were locally or foreign operated, and it was duty of all cities and towns in state to make and enforce ordinances to suppress lotteries and sale of lottery tickets. Op.Atty.Gen., 1932-34, p. 206.

#### 17. ---- Trade or merchandizing promotions, lottery

Sales promotions scheme which involved the sale of numbered sheets for \$1.00 and lucky sheet holder was paid \$5.00 if his sheet number corresponded with a number of a winner of feature race was in violation of this section. Op.Atty.Gen., Nov. 8, 1972.

A scheme whereby licensed race track would give its patrons on a particular evening, without extra charge, a perforated double sided ticket, and whereby a drawing of a ticket would be made to determine the winner of a prize, violated this section, even though the tickets were given to patrons who came in on passes as well as to those patrons who payed for their admission. Op.Atty.Gen., Nov. 4, 1955.

Plan whereby Fair Association would sell merchants tickets for chance on automobile at rate of \$5.00 for each thousand tickets, and merchants, as an advertising scheme, would give tickets to their

customers on purchases or payment of bills at rate of one ticket for each dollar spent on purchases or payments, and tickets gave holders a chance to win automobile which was given away at drawing, was a lottery. Op.Atty.Gen., July 11, 1955.

Plan by national bank to award prizes by chance to their shareholders or customers for bringing new customers to bank did not constitute a lottery, since there was no element of consideration by participant. Op.Atty.Gen., April 27, 1955.

Plan, whereby local merchants donated money for cash prize to be given to winners of periodical drawings from coupons obtained from participating merchants on purchase of merchandise, constituted a lottery in violation of this section. Op.Atty.Gen., June 29, 1954.

Plan, whereby particular merchants purchased automobile to be given away at scheduled baseball game, and whereby merchants gave their customers tickets for cash purchases, such tickets to be drawn from in determining automobile winner, constituted a lottery under this section, although baseball corporation did not raise price of admittance, conducted its game on scheduled drawing night in usual manner and only benefit received by baseball corporation was increased sale of tickets. Op.Atty.Gen., May 21, 1954.

"Fun For All" contest, which was being run by newspaper to promote sale of newspaper subscriptions, but which required a small amount of skill, of knowledge, and of perception, was not violative of former Cr.Code, art. 90 (see, now, this section), since predominating element of chance was lacking. Op.Atty.Gen., 1952-54, p. 56.

Proposed scheme whereby bakery company would call four or five residences during program inquiring of householders if they had a certain bread, and whereby householders who had bread would receive a United States Savings Bond, did not violate former Cr.Code, art. 90 (see, now, this section). Op.Atty.Gen., 1948-50, p. 71.

Giving away a cash prize at certain times for numbered stubs given with each cash purchase in store constituted a violation of lottery law embodied in Acts 1914, No. 280, which amended Acts 1902, No. 107, § 12 and of Acts Second Session of 1934, No. 12 (see, now, this section). Op.Atty.Gen., 1934-36, p. 174.

Lottery law did not extend to presents given by merchants to stimulate trade even though presents were awarded by drawing left to chance. Op.Atty.Gen., 1934-36, p. 177.

Acts 1914, No. 280 amending Acts 1902, No. 107 (see, now, this section) was not violated by including in cartons containing certain items of merchandise coupons which, when collected in sufficient numbers, could be redeemed for other articles of merchandise, when such coupons had no cash value and there was no cash consideration for articles offered as premiums. Op.Atty.Gen., 1932-34, p. 214.

Where 23 merchants of a town purchased an automobile for purpose of giving same away by method of placing all tickets in a box, and allowing a blindfolded child to draw lucky number, and only condition precedent to obtaining of ticket was that holder should spend his money

for \$1 worth of goods at one of 23 merchants, method was not in violation of anti-lottery law but merely a stimulant to business. Op.Atty.Gen., 1924-26, p. 110.

18. ---- Drawings, lottery

Where Association of Commerce desired to sell tickets to merchants, who would give away the tickets with merchandise for prizes to be drawn, and the money derived from the sale of the tickets was to be used to cover the cost of the prizes and to decorate streets for Christmas, the plan did not violate this section. Op.Atty.Gen., Oct. 13, 1955.

Civic club plan for merchant's appreciation day, whereby participating merchant gave customers ticket on purchase of merchandise or payment of store account for drawing of cash awards, constituted a lottery under this section. Op.Atty.Gen., May 17, 1954.

A merchandise "club" whereby each member pays \$2.00 per week for twelve weeks and receives \$24.00 merchandise, there being a drawing each week the winner receiving \$24.00 merchandise without further weekly payments was a lottery and violated this section. Op.Atty.Gen., 1952-54, p. 55.

18.5. ---- Raffles, lottery

Use of a raffle as a political fund-raiser by a candidate would constitute a violation of prohibition in this section as illegal gambling. Op.Atty.Gen., No. 87-591, Oct. 8, 1987.

18.6. ---- Football pools, lottery

"900 fantasy football" telephone service constituted prohibited gambling activity. Op.Atty.Gen., No. 91-14, April 23, 1991.

Political candidates are prohibited from using football pools as fund-raisers with prizes being awarded and the candidate retaining the net proceeds; the activity is "gambling" within the prohibition. Op.Atty.Gen., No. 85-112, March 5, 1985.

19. ---- Distribution of prizes by chance, lottery

Where most of the members of Parish Fair Association paid one dollar for their membership, but association issued free memberships to all residents 75 years of age or older, to former servicemen who had been released from service within six months, unemployed heads of families, widows, and to any person who desired a free membership, and who set forth reasons for being unable to pay for the membership, award of an automobile by chance to a member of the association would not violate this section, since consideration was not present. Op.Atty.Gen., Sept. 19, 1955.

Jackpot quiz award providing among other things that a person participating may become the holder of a participating ticket without paying therefor and may share in the prize awarded by chance, did not violate this section. Op.Atty.Gen., June 28, 1954.

Sale of packages, some of which contained tickets entitling holder to prize, was violative of Acts 1914, No. 280 (see, now, this section), prohibiting lotteries. Op.Atty.Gen., 1932-34, p. 213.

20. ---- Games, lottery

Though number on which light is flashed in a so-called flashlight game depended somewhat on proficiency of player operating electrical device, where others than the operator were permitted to play by betting on the number which will be flashed, the game constituted a "lottery." State v. Lasselle, Sup.1923, 154 La. 168, 97 So. 389.

The game of "bingo" was a lottery. Op.Atty.Gen., 1956-58, p. 130.

The game of "keno" was a lottery. Op.Atty.Gen., 1956-58, p. 130.

Where theatre circulated a standard form of Bingo cards free at theatre or through local merchants, and on each Saturday night winning numbers were announced at theatre, and there was a loud speaker on outside of theatre so that holder of card could Bingo without being inside the theatre, and winner was then eligible to compete for prizes by answering a question, the plan was not a lottery within meaning of this section, since there was no consideration. Op.Atty.Gen., July 29, 1955.

21. ---- Bank night scheme, lottery

A "theater dividend night award" contract, under which theater operator gave to patron paying admission and registering his name and address a card bearing a number and the patron's name and address and dropped a stub bearing the same number, name and address into a drum from which a weekly drawing was made for a sum of money advertised to be awarded by the operator, and under which the patron's presence in the theater was a requisite to receiving the award, was violative of Acts 1894, No. 169 (see, now, this section), denouncing as a crime the running of a "lottery". Doskey v. United Theatres, App.1942, 11 So.2d 276, rehearing denied 11 So.2d 617.

Plan whereby purchasers of tickets to moving picture theater obtained chance to win prize if present on "sweepstakes night" or "bank night" was a "lottery" within Acts 1894, No. 169 (see, now, this section). Shanchell v. Lewis Amusement Co., App.1936, 171 So. 426.

Bank nights, cash nights, dividend nights at motion picture theatres were lotteries. Op.Atty.Gen., 1950-52, p. 24.

A "bank night" at a moving picture theater under scheme whereby patrons' names are placed in a pot, one name is drawn therefrom, and the patron whose name is drawn, is awarded a cash prize, was a lottery and illegal. Op.Atty.Gen., 1942- 44, p. 244.

Bank night scheme whereby theatre operator makes a slip for each patron and prospective patrons, and person whose name is drawn may theoretically claim the award although outside the theatre, was nevertheless a lottery and illegal. Op.Atty.Gen., 1938-40, p. 142.

21.5. ---- Frequent flyer program, lottery

Proposed "frequent flyer" program at Baton Rouge's airport was not in violation of gambling proscriptions, in that the proposed program contained no undue influence of the consumer or deceptive trade practice and would not be conducted as a raffle. Op.Atty.Gen., No. 88-345, July 26, 1988.

22. ---- Machines, lottery

That "Screamo" machine did not have "automatic payoff" like slot machine did not prevent machine from being "lottery" in violation of Acts 1934, 2d Ex.Sess., No. 12 (see, now, this section) where operator's agent paid players out of cash register if balls shot by plunger fell in certain combinations of holes located among wire pins. State v. Barbee, Sup.1937, 187 La. 529, 175 So. 50.

The use of a slot machine, where an element of chance determines whether the prizes are to be given, brings such operation under the definition of a lottery, whether or not the prizes given are stock in trade of licensed establishments. City of New Orleans v. Collins, Sup.1900, 52 La. Ann. 973, 27 So. 532.

Pinball machines constituted a lottery and neither the state nor any parish or municipality could license such a machine. Op.Atty.Gen., 1942-44, p. 1730.

Under Acts 1902, No. 107 as amended by Acts 1914, No. 280 (see, now, this section) prohibiting offense of conducting a lottery business, gum vending machine in which a five-cent package of gum was delivered for each nickel deposited, and at intervals in addition to gum, buyer was given number of trade checks which might enable him to get more than a nickel's worth, was a lottery. Op.Atty.Gen., 1916-18, p. 870.

23. Machines--In general

This section defining gambling as the intentional conducting, as a business, of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit proscribes gambling on gambling-type machines where payoffs are in merchandise or cash or both if the payoffs are determined by element of chance. U. S. v. Bally Mfg. Corp., E.D.La.1972, 345 F.Supp. 410.

Where no Louisiana law either specifically or impliedly legalized gambling devices where possibility of winning was the result of the application of an element of chance, bingo-type pinball machine was not within exemption of Gambling Devices Transportation Act, §§ 1-9, as amended, 15 U.S.C.A. §§ 1171-1178, that it is not unlawful to transport in interstate commerce any gambling device into any state in which the device is specifically enumerated as lawful in a statute of that state. U. S. v. Bally Mfg. Corp., E.D.La.1972, 345 F.Supp. 410.

A device or mechanism, which spined automatically when a purchase was registered on a cash register, and showed four numbers, which, if lucky numbers, would entitle the purchaser to a prize, violated this section. Op.Atty.Gen., Oct. 12, 1955.

Pin-ball machine which paid off in cash or redeemable tokens was in violation of former Cr.Code, art. 90 (see, now, this section). Op.Atty.Gen., 1950-52, p. 24.

The owner or custodian of a cigarette machine on which one could win a 20 cent package of cigarettes for a penny or a nickel could be convicted of violating former Cr.Code, art. 90 (see, now, this section) upon showing automatic ejection of the pack of cigarettes or that custodian or owner handed the player a package of cigarettes for having "hit" the lucky combination. Op.Atty.Gen., 1946-48, p. 125.

Owners of non-pay-off pinball machines were not required under former Cr.Code, art. 90 (see, now, this section) to post notices to inform prospective players that use of the machine was for amusement only so that they would not be disappointed on discovering that they were not pay-off machines. Op.Atty.Gen., 1944-46, p. 371.

A mechanical device used in playing a baseball game for amusement, with no premiums, prizes, or free plays being given, could be operated legally, but if any betting was permitted in connection with the operation the law is violated. Op.Atty.Gen., 1938-40, p. 143.

Use of punch board in connection with giving award of premium to purchasers of laundry soap was prohibited. Op.Atty.Gen., 1934-36, p. 180.

Machine known as "Pace's Races" which had automatic payoff device and afforded player an opportunity to gamble in operation could not be legally operated in Louisiana. Op.Atty.Gen., 1934-36, p. 197.

Operation of a ball machine played for pleasure and based on skill and involving no gambling or betting was not prohibited. Op.Atty.Gen., 1934-36, p. 208.

Marble machines which were played purely for skill and pleasure were not prohibited but if Mayor and Board of Alderman held that such machines were to be disallowed they were not to be destroyed but were to be prohibited and closed. Op.Atty.Gen., 1934-36, p. 209.

#### 24. ---- Slot machines

A slot machine which gave for a coin deposited therein merchandise of the value of the coin and also returned at uncertain intervals, in varying amounts, money or checks or anything of value was a "gambling device" within Act No. 107 of 1908, §§ 1, 2 (see, now, R.S. 15:31). O.D. Jennings & Co. v. Maestri, E.D.La.1938, 22 F.Supp. 980, affirmed 97 F.2d 679.

Evidence supported conclusion that hall that was owned and operated by religious service organization and that was site of charitable event that included gambling was "private dwelling," and thus that antique slot machines were excepted from seizure as contraband; author of legislation dealing with antique machines stated that term was intended to refer to any type of dwelling that was neither public dwelling, public building, nor public facility, and organization was private organization chartered as nonprofit charitable organization; moreover, statutory scheme governing gambling, gambling devices, and games of

chance reflected legislative intent to make allowances and exceptions when activities were operated or performed under auspices of charitable organizations for charitable purposes. *Alexander v. State Dept. of Public Safety and Corrections*, App. 5 Cir.1990, 572 So.2d 644, writ denied 575 So.2d 371.

For purposes of determining whether antique slot machines used at religious service organization's charitable event were properly seized as contraband, evidence supported conclusion that event was bona fide affair conducted for charitable purposes and that no unlawful gambling took place; net proceeds from event were not for benefit of organization, but for charitable purposes, and organization obtained charitable gambling license, albeit after event ended and machines were seized. *Alexander v. State Dept. of Public Safety and Corrections*, App. 5 Cir.1990, 572 So.2d 644, writ denied 575 So.2d 371.

Coin-operated electrically-actuated machine which required no skill for operation, registered free replays if illuminated figures formed winning combination, and did not automatically pay out money for such combinations was gambling device known as "slot machine". *Vaughan v. Dowling*, Sup.1962, 243 La. 390, 144 So.2d 371.

Machines found in warehouse, and belonging to person who had been convicted of gambling, operation of which machines was started by dropping a coin into a slot and each of which paid off automatically in money when played, constituted "slot machines," and hence were subject to confiscation and destruction. *Schimpf v. Thomas*, Sup.1943, 204 La. 541, 15 So.2d 880.

Nickel slot machines which after each play dispensed a package of mints and indicated the number of checks or coupons which it would pay on the next play was gambling device within Acts 1908, No. 7 (see, now, this R.S. 15:31), notwithstanding the player could at all times see what he would receive for his nickel. *Tonahill v. Molony*, Sup.1924, 156 La. 753, 101 So. 130.

Automatic money pay-off slot machines violated gambling provision of former Cr.Code, art. 90 (see, now, this section), and also violated Acts 1908, No. 107 (see, now, R.S. 15:31) authorizing state officers to confiscate and immediately destroy all gambling devices known as slot machines that may come to their attention. *Op.Atty.Gen.*, 1946-48, p. 139.

A "marble machine" which paid off in money was illegal because it was similar to a slot machine, but it could not be confiscated under Acts 1908, No. 107 (see, now, R.S. 15:31) because authority there given covers only slot machines. *Op.Atty.Gen.*, 1936-38, p. 143.

Operation of slot machines was not permitted in Louisiana. *Op.Atty.Gen.*, 1934-36, p. 196.

## 25. Horse racing--In general

Pari-mutuel wagering on horse races, when properly authorized and licensed by State Racing Commission, was not illegal and was not nuisance per se. *Dudoussat v. Louisiana State Racing Commission*, App. 4 Cir.1961, 133 So.2d 155.

This section defining gambling, and R.S. 4:141 et seq. creating the Louisiana State Racing Commission must be construed together, since they are part of one legislative act. *Gandolfo v. Louisiana State Racing Com'n*, Sup.1954, 227 La. 45, 78 So.2d 504.

R.S. 4:141 et seq. creating the Louisiana State Racing Commission constitutes an exception to the general rule stated in this section providing that gambling is the intentional conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance whereby a person risks loss of anything of value in order to realize a profit. *Gandolfo v. Louisiana State Racing Com'n*, Sup.1954, 227 La. 45, 78 So.2d 504.

R.S. 4:141 et seq. providing for regulation of horse racing and wagering thereon within a licensed inclosure where race is run did not preclude prosecution under general law against gambling of one charged with conducting and assisting in conducting a bookmaking establishment outside a licensed inclosure. *State v. Saia*, Sup.1947, 212 La. 868, 33 So.2d 665.

Illegal betting on horse races may be prosecuted either under former Cr.Code, art. 90 (see, now, this section) prohibiting gambling or under penal provisions of Louisiana Horse Racing Act (see R.S. 4:141 et seq.) Op.Atty.Gen., 1944- 46, p. 110.

#### 26. ---- Poolrooms and turf exchanges

The conduct of a "turf exchange" or a business wherein bets and wagers on the results of horse races are accepted and made outside of the race tracks and enclosures, was within former Cr.Code, art. 90 (see, now, this section) denouncing "gambling". *State v. Davis*, Sup.1945, 208 La. 954, 23 So.2d 801.

A turf exchange was a "contrivance" through the medium of which wagers or bets are placed on the results of horse races that are run at distant tracks within former Cr.Code, art. 90 (see, now, this section) denouncing gambling. *State v. Davis*, Sup.1945, 208 La. 954, 23 So.2d 801.

Gaming in pool rooms was prohibited. *State v. Rabb*, Sup.1905, 115 La. 733, 39 So. 971.

There can be no question that the evil sought to be remedied by Acts 1904, Nos. 127 (repealed) and 128 (see, now, this section), was the suppression of gambling on horse races through the medium of pool rooms and turf exchanges, which mean the same thing. *State v. Maloney*, Sup.1905, 115 La. 498, 39 So. 539.

The words "pool room" within the meaning of Acts No. 1904, No. 128 (see, now, this section), was a place maintained for carrying on or facilitating betting, but removed from or out of view of the game, contest or event upon which the wages are laid; and it embraced betting not only on horse races but also on the result of baseball games. *Bacher v. Stumpf*, 1917, 14 Orleans App. 367.

A business establishment permitting betting on horse races and receiving its data to permit carrying on of such betting from various race tracks by wire was acting in violation of former Cr.Code, art. 90 (see, now, this section). Op.Atty.Gen., 1944-46, p. 110.

#### 27. Banking games, generally

"Banking house", as used in Acts 1870, No. 12, § 2 (see, now, this section), punishing one who keeps a banking house at which money was bet or hazarded, meant a place where gambling was carried on, and a "banking game", within meaning of statute, was a gambling game at which money was bet or hazarded. State v. Singley, Sup.1940, 195 La. 519, 197 So. 218.

Though game involved alleged element of skill, if proprietor or operator took all comers, and bet prizes in money or property against the players, who, individually or collectively, bet on their own playing or that of one another, so that, if they lost the money went to the operator, the game amounted to "banking game." Capell v. Molony, Sup.1923, 154 La. 420, 97 So. 595.

The game called "monte," described by witness as one in which players bid money against the house, was a "banking game". State v. Reuter., Sup.1920, 148 La. 245, 86 So. 782.

Where players in a gambling game bet and settled with each other, it was not a banking game, but where one stood ready, by himself or another, to take all bets, receiving what was lost and paying what was won, it was a banking game. State v. Rabb, Sup.1912, 130 La. 370, 57 So. 1008, error dismissed 35 S.Ct. 204, 235 U.S. 688, 59 L.Ed. 426.

A faro game is a banking game. State v. Behan, Sup.1904, 113 La. 754, 37 So. 714.

#### 28. Dissemination of information

Dissemination of horse racing information as legitimate news did not violate gambling provision of former Cr.Code, art. 90 (see, now, this section). Op.Atty.Gen., 1946-48, p. 131.

#### 29. Filing of business reports

In prosecution for gambling by engaging in the business of conducting a lottery, filing of reports by defendant with Louisiana Department of Labor pursuant to provisions of the Louisiana Unemployment Compensation Act (R.S. 23:1471 et seq.) and pursuant to the Federal Wagering Tax Law (26 U.S.C.A. § 4401 et seq.) did not grant the defendant an implied promise of immunity from prosecution for gambling. State v. Mills, Sup.1956, 229 La. 758, 86 So.2d 895, certiorari denied 77 S.Ct. 51, 352 U.S. 834, 1 L.Ed.2d 53, certiorari denied 77 S.Ct. 52, 352 U.S. 834, 1 L.Ed.2d 53.

In prosecution for gambling by engaging in the business of conducting a lottery, state and federal reports filed by the defendant were not inadmissible on the ground that they violated the constitutional rights and guarantees against self-incrimination. State v. Mills, Sup.1956, 229 La. 758, 86 So.2d 895, certiorari denied 77 S.Ct. 51, 352 U.S. 834,

1 L.Ed.2d 53, certiorari denied 77 S.Ct. 52, 352 U.S. 834, 1 L.Ed.2d 53.

### 30. Jurisdiction and venue

Where section of criminal district court to which lottery prosecution had been originally allotted had 73 active misdemeanor cases on docket, while section to which prosecution was transferred without defendants' consent had 37 such cases, transfer, which was made to expedite business of the court, was not arbitrary, even though the particular prosecution could have been tried expeditiously in section to which it was originally allotted. *State v. Booth*, Sup.1957, 232 La. 365, 94 So.2d 290.

The circumstances that wagers were made under the guise of telegrams to a neighboring town in another state, the room being operated and the money received and bets paid by defendant in the state, was only a subterfuge or evasion of Acts 1904, No. 128 (see, now, this section), prohibiting the operation of a poolroom, and had no legal effect whatever on the venue of the offense. *State v. Maloney*, Sup.1905, 115 La. 498, 39 So. 539.

### 31. Indictment and information--In general

District attorney was not bound by arresting officer's charge of violation of vagrancy statute (R.S. 14:107) with respect to persons who maintained themselves in most part by gambling and exercised a right of policy which he possessed in filing information charging him with violation of this section. *State v. Washington*, Sup.1968, 252 La. 359, 211 So.2d 290.

Information drawn under former Cr.Code, art. 90 (see, now, this section) prohibiting gambling and clearly charging that accused committed acts which were prohibited was not defective because it did not charge specifically that accused had committed crime of gambling. *State v. Damico*, Sup.1948, 213 La. 765, 35 So.2d 654.

Information charging defendant with keeping and operating gambling game did not charge defendant with crime. *State v. Williams*, Sup.1931, 173 La. 1, 136 So. 68.

One who aided and abetted in keeping a banking game or banking house, made one offense under Acts 1870, p. 38, No. 12 (see, now, this section), could be prosecuted in one count, setting out the principal and the acts of aiding and abetting. *State v. Behan*, Sup.1904, 113 La. 754, 37 So. 714.

### 32. ---- Statute citation, indictment and information

Information, charging that defendant committed "gambling as denounced by Louisiana Revised Statutes, Title 14, Sec. 90", was insufficient. *State v. McQueen*, Sup.1955, 230 La. 55, 87 So.2d 727.

Information which charged defendant with gambling violation by using name and article number of offense was insufficient. *State v. Straughan*, Sup.1956, 229 La. 1036, 87 So.2d 523.

33. ---- Statutory language, indictment and information

Indictment for keeping banking game, following language of statute, sufficiently set forth offense. State v. Hudson, Sup.1926, 162 La. 543, 110 So. 749.

Information in prosecution for operating gambling game, in violation of Acts 1870, No. 12, § 2 (see, now, this section), was sufficient where charging offense in exact language of statute. State v. Kilshaw, Sup.1925, 158 La. 203, 103 So. 740.

It is sufficient if an information charges the offense of operating a banking game in the language of the statute. [Acts 1870, No. 12 (see, now, this section) ]. State v. Capell, Sup.1923, 154 La. 662, 98 So. 58.

34. ---- Sufficiency of indictment and information

A charge that defendant sold "illegal prize packages of tea" in violation of a city ordinance prohibiting lotteries, etc., was sufficient where it alleged the time, place, and date of the commission of the act complained of. State v. Boneil, 1890, 42 La. Ann. 1207, 8 So. 300; State v. Boneil, 1890, 42 La. Ann. 1110, 8 So. 298, 21 Am. St. Rep. 413, 10 L. R. A. 60.

In prosecution for gambling by engaging in the business of conducting a lottery, information was not insufficient as vague and indefinite because not informing the defendant of the nature and cause of accusation against her. State v. Mills, Sup.1956, 229 La. 758, 86 So. 2d 895, certiorari denied 77 S. Ct. 51, 352 U. S. 834, 1 L. Ed. 2d 53, certiorari denied 77 S. Ct. 52, 352 U. S. 834, 1 L. Ed. 2d 53.

Information charging that accused willfully, unlawfully, and intentionally conducted and directly assisted in the conducting, as a business, at certain city, of a game, contest, lottery, and contrivance, by having and permitting on the premises the operation, use and playing of a mechanical device known as a slot machine, whereby a person risked the loss of a thing of value in order to realize a profit, was sufficient to charge crime of gambling. State v. Richardson, Sup.1951, 220 La. 338, 56 So. 2d 568.

A bill of information charging that accused "did intentionally" conduct and directly assist in the conducting, as a business, of a game, contest, and contrivance whereby a person risked money and things of value in order to realize a profit" was quashable as not giving accused enough information to enable preparation of defense, and as not being sufficiently definite to serve as a bar to future prosecution. State v. Varnado, Sup.1944, 208 La. 319, 23 So. 2d 106.

Information charging accused with having in his possession gambling devices was not sufficient to sustain a conviction for conducting a business of gambling under former Cr. Code, art. 90 (see, now, this section). State v. Schimpf, Sup.1943, 203 La. 835, 14 So. 2d 676.

An information and bill of particulars in prosecution under Acts 1934, 2d Ex. Sess., No. 12 (see, now, this section), charging that accused, contrary to statute, willfully and unlawfully established, set up, and

engaged in operation of "lottery" consisting of "nine ball marble table" called a "Screamo," whereby player paid five cents and received cash if balls shot by plunger fell in certain combinations of holes located among wire pins, was sufficient to charge crime. State v. Barbee, Sup.1937, 187 La. 529, 175 So. 50.

### 35. Bill of particulars

In prosecution for gambling by conducting as a business a lottery, motion for a bill of particulars as to the kind of lottery involved was properly denied, since the word "lottery" as used in the former Cr.Code, art. 90 (see, now, this section), and information is not vague nor indefinite and every layman knows exactly what is meant by the term. State v. Mills, Sup.1956, 229 La. 758, 86 So.2d 895, certiorari denied 77 S.Ct. 51, 352 U.S. 834, 1 L.Ed.2d 53, certiorari denied 77 S.Ct. 52, 352 U.S. 834, 1 L.Ed.2d 53.

Any defect in short form of information charging offense of gambling was cured by answer filed by district attorney pursuant to defendant's motion for bill of particulars showing that the defendant had accepted wagers on horse races outside of race tracks and enclosures. State v. Davis, Sup.1945, 208 La. 954, 23 So.2d 801.

### 36. Prescription

Where defendant, charged with letting a disorderly place and gambling, had not made any preliminary motions on his behalf until after the one-year prescriptive period had already run, prosecution was barred under one-year statute (C.Cr.P. art. 578) although attorney representing both defendant and another kept obtaining, with consent of prosecutor who wished to try case against the other first, continuances in favor of the other thereby delaying trial against defendant. State v. Benson, Sup.1969, 254 La. 867, 227 So.2d 913.

### 37. Jury or fact questions

Whether government could sustain its burden that pinball machines were designed and manufactured primarily for use in connection with gambling within meaning of Louisiana law was question of fact to be submitted to the jury in prosecution for interstate transportation in aid of illegal gambling business and conducting illegal gambling business and conspiracy and did not present basis for dismissal of indictment. U. S. v. Bally Mfg. Corp., E.D.La.1972, 345 F.Supp. 410.

Whether the conditions existed which constituted a banking game was a question of fact. State v. Rabb, Sup.1912, 130 La. 370, 57 So. 1008, error dismissed 35 S.Ct. 204, 235 U.S. 688, 59 L.Ed. 426.

Question whether a slot machine violated former Cr.Code, art. 90 (see, now, this section) was a factual situation in each particular case. Op.Atty.Gen., 1948-50, 67.

### 38. Instructions

In a prosecution for gambling by conducting a lottery, refusal to give charges defining a lottery and setting out elements of a lottery was proper. State v. Dominguez, Sup.1956, 230 La. 371, 88 So.2d 660.

In a prosecution for gambling by conducting a lottery, an instruction that the state would be required to establish guilt beyond a reasonable doubt and prove beyond a reasonable doubt every necessary ingredient to constitute a lottery before the court would be justified in finding the defendant guilty was properly refused. *State v. Dominguez*, Sup.1956, 230 La. 371, 88 So.2d 660.

#### 39. Sufficiency of evidence

Evidence sustained conviction for having committed crime of gambling by conducting or assisting in conducting of business where divers persons bet upon results of horse races. *State v. Hand*, Sup.1955, 228 La. 405, 82 So.2d 691.

Evidence that owner received 50 per cent of money put into slot machine, and that person who kept machine on display in place of business paid out candy on winning combination to user who inserted coin justified convictions under former Cr.Code, art. 90 (see, now, this section) penalizing operation and use of a slot machine whereby person risks loss of thing of value to realize a profit. *State v. Ricks*, Sup.1949, 215 La. 602, 41 So.2d 232.

Evidence that accused operated "nine ball marble table" called a "Screamo," whereby player paid five cents and received cash from accused's agent, if balls shot by plunger fell in certain combinations of holes located among wire pins, that consistent winners were not allowed to continue playing, and that winning combinations were impossible to attain by skill, supported conviction of operating "lottery". *State v. Barbee*, Sup.1937, 187 La. 529, 175 So. 50.

#### 40. Verdict

Where an information was filed against a defendant for keeping "a banking game, or banking house at which money, and bone or ivory checks representing money, were bet," and a special verdict of "guilty of keeping a banking game or gambling house" was returned, the special verdict was defective since it did not set out all the facts. *State v. Davis*, 1868, 20 La. Ann. 354.

#### 41. Sentence and punishment

Prior to signing of order of appeal and setting of return date conditioned on furnishing of \$1,500 bond, trial judge had right to amend defendant's sentence following conviction for offense of gambling, a misdemeanor, by increasing fine from \$100 to \$500 and he did not abuse his discretion in so doing. *State v. Washington*, Sup.1968, 252 La. 359, 211 So.2d 290.

#### 42. Review--In general

Defendant who entered guilty plea in prosecution for gambling waived all nonjurisdictional defects except right to appeal denial of his motion to suppress, which he reserved; thus, defendant's argument that trial judge erred by refusing to allow disclosure of confidential informant would not be considered on appeal. *State v. Olsen*, App. 4 Cir.1984, 446 So.2d 439, writ denied 450 So.2d 963.

Where defendants were charged with gambling as a business and the evidence in the record showed that the defendants committed the offense at the place charged within the jurisdiction of the trial court, question of sufficiency of the evidence to sustain the conviction was one of fact which the Supreme Court could not review. *State v. Mills*, Sup.1956, 229 La. 758, 86 So.2d 895, certiorari denied 77 S.Ct. 51, 352 U.S. 834, 1 L.Ed.2d 53, certiorari denied 77 S.Ct. 52, 352 U.S. 834, 1 L.Ed.2d 53.

Where, to pass upon two alleged errors which were allegedly patent on face of record of gambling case wherein no bill of exceptions had been perfected, it would be necessary for Supreme Court to consider evidence taken in the case, the Supreme Court could not pass upon the errors. *State v. Lovoi*, Sup.1955, 228 La. 638, 83 So.2d 656.

Where some legal evidence, although circumstantial, was adduced of facts essential to a conviction of gambling, no question of law was presented to Supreme Court and it could not pass on sufficiency of evidence. *State v. Saia*, Sup.1947, 212 La. 868, 33 So.2d 665.

Where record showed that there was some testimony adduced at trial under Acts 1870, No. 12, § 2 (see, now, this section), showing that defendants were guilty, Supreme Court was without power to pass on question of whether evidence adduced was sufficient to support trial judge's verdict finding defendants guilty. *State v. Singley*, Sup.1940, 195 La. 519, 197 So. 218.

#### 43. ---- Jurisdiction, review

Where a defendant was sentenced by the city court of Oakdale to serve 15 days in the parish jail and to pay a fine of \$300 and, in default of payment of the fine to serve an additional six months in the parish jail, following his conviction for violation of this section, the Supreme Court was without appellate jurisdiction since the imprisonment did not actually exceed six months and the fine did not exceed \$300, and furthermore, it lacked authority to transfer the case to the judicial district court to which the appeal should have been made. *State v. White*, Sup.1960, 240 La. 926, 125 So.2d 413.

A sentence of defendant for violation of this section to 15 days in jail and to pay a fine of \$300 and in case of default in payment of fine to serve an additional six months in jail did not amount to actual imposition of a term of imprisonment exceeding six months and Supreme Court did not have jurisdiction of appeal. *State v. Kelly*, Sup.1960, 240 La. 923, 125 So.2d 412.

LSA-R.S. 14:90

LA R.S. 14:90

END OF DOCUMENT

LA R.S. 27:44

LSA-R.S. 27:44

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 4. THE LOUISIANA RIVERBOAT ECONOMIC DEVELOPMENT AND GAMING  
CONTROL  
ACT  
PART I. GENERAL PROVISIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 44. Definitions

When used in this Chapter, the following terms shall have these meanings:

(1) "Applicant" means a person who has submitted an application to the division seeking a license or permit, or the renewal thereof.

(2) "Application" means the forms and schedules prescribed by the division upon which an applicant seeks a license or permit or the renewal thereof. Application also includes information, disclosure statements, and financial statements submitted by an applicant as part of an application.

(3) "Commission" means the Riverboat Gaming Commission.

(4) "Designated gaming area" means that portion of a riverboat in which gaming activities may be conducted. Such designated gaming area shall not exceed sixty percent of the total square footage of the passenger access area of the vessel or thirty thousand square feet, whichever is lesser.

(5) "Designated river" or "designated waterway" means those rivers or bodies of water listed in R.S. 27:43 upon which gaming activities may be conducted.

(6) "Division" means the riverboat gaming enforcement division of the gaming enforcement section of the office of state police, public safety services, Department of Public Safety and Corrections.

(7) "Economic interest" means any interest in a license or licensee whereby a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest, or other benefit.

(8) "Employee permit" or "gaming employee permit" means the permit of a person employed in the operation or supervision of a gaming activity on a riverboat and includes pit bosses, floormen, boxmen, dealers or croupiers, machine mechanics, designated gaming area security employees, count room personnel, cage personnel, slot machine and slot booth personnel, credit and collection personnel, casino surveillance personnel, and supervisory employees empowered to make discretionary decisions that regulate gaming activities, including shift bosses, credit executives, casino cashier supervisors, gaming managers and assistant managers, and any individual, other than nongaming equipment

maintenance personnel, cleaning personnel, waiters, waitresses, and secretaries, whose employment duties require or authorize access to designated gaming areas.

(9) "Entertainment fee" means a fee assessed by the state for each passenger boarding a riverboat.

(10) "Game" means any banking or percentage game which is played with cards, dice, or any electronic, electrical, or mechanical device or machine for money, property, or any thing of value. "Game" does not include a lottery, bingo, pull tabs, raffles, electronic video bingo, cable television bingo, dog race wagering, or any wagering on any type of sports event, including but not limited to football, basketball, baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event. Game shall also include racehorse wagering.

(11) "Gaming activities" or "gaming operations" means the use, operation, or conducting of any game or gaming device upon a riverboat.

(12) "Gaming device" or "gaming equipment" means any equipment or mechanical, electro-mechanical, or electronic contrivance, component, or machine, including a slot machine, used directly or indirectly in connection with gaming or any game, which affects the result of a wager by determining wins or losses.

(13) "Gaming operator" or "licensee" means any person holding or applying for a gaming license to conduct gaming activities.

(14) "License" or "gaming license" means a license or authorization to conduct gaming activities on a riverboat issued pursuant to the provisions of this Chapter.

(15) "Net gaming proceeds" means the total of all cash and property, including checks received by a licensee, whether collected or not, received by the licensee from gaming operations, less the total of all cash paid out as winnings to patrons.

(16) "New construction" means a riverboat upon which construction is commenced on or after January 1, 1992.

(17) "Passenger" means a natural person who is present on a riverboat but has no part in the vessel's operation.

(18) "Permit" means any permit or authorization or application therefor issued pursuant to this Chapter other than a gaming license.

(19) "Permittee" means any employee, agent, person, or entity who is issued or applying for a permit pursuant to this Chapter.

(20) "Person" means an individual, partnership, corporation, unincorporated association, or other legal entity.

(21) "Racehorse wagering" means wagers placed on horse racing conducted under the pari-mutuel form of wagering at licensed racing facilities that is accepted by a licensed racehorse wagering operator under the provisions of this Chapter.

(22) "Racehorse wagering operator" means the licensed racing association whose facility is located closest to the licensed berth of the riverboat on which gaming activities are approved.

(23) "Riverboat" means a vessel which:

(a) Carries a valid Certificate of Inspection issued by the United States Coast Guard with regard to the carriage of passengers on designated rivers or waterways within or contiguous to the boundaries of the state of Louisiana.

(b) Carries a valid Certificate of Inspection from the United States Coast Guard for the carriage of a minimum of six hundred passengers and crew.

(c) Has a minimum length of one hundred fifty feet.

(d) Is of such type and design so as to replicate as nearly as practicable historic Louisiana river borne steamboat passenger vessels of the nineteenth century era. It shall not, however, be a requirement that the vessel be steam- propelled or maintain overnight facilities for its passengers.

(e) Is paddlewheel driven.

(24) "Slot machine" means any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

(25) "Supervisor" means the person in charge of the division.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1991, No. 753, § 1.  
R.S. 4:504.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in R.S. 4:504 as enacted in 1991, a comma was inserted following "square feet" in the second sentence of par. (4); the article "a" was inserted preceding "lottery" in the second sentence of

par. (10); a closing quotation mark was added following the first defined term in par. (11); commas were substituted for parentheses to enclose the second clause of the sentence constituting par. (15); and certain paragraphs were renumbered to reflect alphabetical order of the terms defined therein.

R.S. 4:504 was redesignated as R.S. 27:44 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute. Pursuant to that same authority, a reference to R.S. 27:43 was substituted for a reference to R.S. 4:503 in par. (5).

#### LIBRARY REFERENCES

1999 Electronic Pocket Part Update

Words and Phrases (Perm. Ed.)

#### NOTES OF DECISIONS

Construction and application 1  
Employees 4  
Gaming operator or licensee 3  
Person 2

##### 1. Construction and application

Definition of "person" in Riverboat Gaming Act controlled over different definition of "person" in Administrative Procedure Act for purposes of determining whether appellant was "person" entitled to appeal decision of Riverboat Gaming Commission to award license to applicant. State Through Dept. of Public Safety and Corrections v. Louisiana Riverboat Gaming Com'n, App. 1 Cir.1994, 94 0702, 94 0730, 94 0731, 94 0732, 94 0, 640 So.2d 1368, writ granted 94-1872 (La. 11/4/94), 644 So.2d 1063, writ granted 94-1913 (La. 11/4/94), 644 So.2d 1064, writ granted 94-1914 (La. 11/4/94), 644 So.2d 1064, reversed in part, vacated in part 94-1872, 94-1914 (La. 5/22/95), 655 So.2d 292.

##### 2. Person

Gaming division is "person" entitled to appeal decision of Riverboat Gaming Commission to award license to applicant rejected by division found as "unsuitable"; division, which is distinct and separate entity with power to sue and be sued, is "legal entity" under Riverboat Gaming Act and therefore "person" entitled to seek judicial review of adverse decisions of Commission. State Through Dept. of Public Safety and Corrections v. Louisiana Riverboat Gaming Com'n, App. 1 Cir.1994, 94 0702, 94 0730, 94 0731, 94 0732, 94 0, 640 So.2d 1368, writ granted 94-1872 (La. 11/4/94), 644 So.2d 1063, writ granted 94-1913 (La. 11/4/94), 644 So.2d 1064, writ granted 94-1914 (La. 11/4/94), 644 So.2d 1064, reversed in part, vacated in part 94-1872, 94-1914 (La. 5/22/95), 655 So.2d 292.

##### 3. Gaming operator or licensee

The definition of "licensee" and "operator" within the provisions of the Riverboat Gaming and Economic Development and Gaming Control Act and the Louisiana Economic Development and Gaming Corporation Law is limited to those persons holding a license to conduct gaming operations and does not include those contractors who perform work for the construction of the casinos; therefore, a sheriff can contract with the general contractor or a sub-contractor. Op.Atty.Gen. No. 94-361, July 15, 1994.

#### 4. Employees

Under the Louisiana Riverboat Economic Development and Gaming Control Act, LSA-R.S. 4:461 et seq. the legislature has imposed a minimum age requirement of twenty-one as the minimum permissible age for those individuals employed as "gaming employees", as defined by law. Op.Atty.Gen. No. 94-187, April 22, 1994.

LSA-R.S. 27:44

LA R.S. 27:44

END OF DOCUMENT

LA R.S. 33:4861.4

LSA-R.S. 33:4861.4

TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess. Acts

§ 4861.4. Authorization to license certain organizations; exemption; requirement for state license

A. The division and the governing authority of any municipality or parish may license charitable organizations, as defined in R.S. 33:4861.2(1) to hold and operate the following specific games of chance:

(1) The game of chance commonly known as raffle or raffles played by drawing for prizes or the allotment of prizes by chance, by the selling of shares, tickets, or rights to participate in such game or games, and by conducting the game or games accordingly.

(2) The game of chance commonly known as bingo or keno played for prizes with cards bearing numbers or other designations, five or more in one line, the holder covering numbers, as objects, similarly numbered, are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on such a card.

(3) The game of chance commonly known as pull-tabs played for prizes with cards or tickets and as defined in R.S. 33:4861.2 or played as electronic pull-tabs as provided in R.S. 33:4861.27.

(4) Electronic video bingo as provided for in R.S. 33:4861.17 and as defined by rules of the division.

(5) Fund raising events generally known as "Las Vegas Nights" or "Casino Nights" as provided for in R.S. 33:4861.24 as defined by rules of the division.

B. Any such organization so licensed may sell shares, tickets, or rights to participate in such games and may conduct the games accordingly when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious, or public spirited uses, and when so licensed, may hold, operate, and conduct such games of chance exclusively by its active members pursuant to this Part, except to the extent that the services of active members of other bona fide licensed organizations as enumerated in this Section are volunteered by their organization for the sole purpose of selling shares, tickets, or rights in such games. Any such organization so licensed may sell shares, tickets, or rights to participate in such game or games of chance pursuant to rules and regulations for the supervision and conduct thereof, as prescribed by the division and the governing authority of the municipality or parish not inconsistent with the provisions of this Part. Further, any person or persons may participate in and play such games of chance conducted under any license.

C. In addition to the authority granted in Subsection A of this Section, the division and the governing authority of any parish or municipality may license the following organizations, as defined herein, to hold and operate the specific kind of game or games of chance enumerated in Subsection A of this Section without the requirement that any such organization qualify with the Internal Revenue Service for an exemption from federal income tax as specified by R.S. 33:4861.2(1): Mardi Gras carnival organizations, civic or service associations, volunteer fire companies, booster clubs, and parent-teacher associations. For the purposes of this Section, the following definitions shall apply:

(1) A Mardi Gras carnival organization shall mean an organization domiciled in this state which presents pre-Lenten festivities, including street parades, and which has received a permit to parade from a municipal or parish governing authority.

(2) A civic or service association shall mean an organization domiciled in this state which is operated for the purpose of promoting the social welfare or providing service to the community and which has derived five thousand dollars or less in gross receipts from its charitable games of chance during the prior calendar year.

(3) A volunteer fire company shall mean an organization which has been engaged by the governing authority of a parish, municipality, or fire protection district to provide fire protection services to the area of this state under its jurisdiction and which is comprised predominantly of individuals who provide such services voluntarily and without compensation.

(4) A booster club shall mean an organization which promotes and supports the activities, functions, or programs of a public or a

private nonprofit elementary or secondary school in this state and which has been designated by the school board of the parish or city in which such school is located to collect funds in the name of that school. Only one such organization shall be designated for each school.

(5) A parent-teacher association shall mean an organization which is comprised of teachers and parents of children enrolled in a public or a private nonprofit elementary or secondary school in this state and which has been designated by the school board of the parish or city in which such school is located to collect funds in the name of that school. Only one such organization shall be designated for each school.

D. (1) A bona fide senior citizen recreation club, upon application to the municipality or parish, shall be exempt from the licensing and reporting procedure enumerated in R.S. 33:4861.5 through R.S. 33:4861.14 of this Part in a municipality or parish whose governing authority has decided to permit raffles, bingo, and keno within its limits as provided in R.S. 33:4861.3. A senior citizen recreation club for the purpose of this Part shall be defined as an organization which is sanctioned by the local council on aging, and composed of a group of persons sixty years of age or older whose only function is to provide amusement and diversion for its members.

(2) Any club, organization, group, or association which has a membership comprised exclusively of children enrolled in a public or private nonprofit elementary or secondary school in this state and which is approved to conduct activities in such school by the principal of such school in accordance with school board policy, shall be exempt from the licensing and reporting procedures enumerated in R.S. 33:4861.5 through R.S. 33:4861.14 of this Part in a municipality or parish whose governing authority has decided to permit raffles, bingo, and keno within its limits as provided in R.S. 33:4861.3. Such club, organization, group, or association shall be exempted from licensing and reporting procedures only for the conducting of raffles as a means of fund raising.

(3) A charitable organization, upon application to the municipality or parish, shall be exempt from the licensing and reporting requirements provided in R.S. 33:4861.5 through 4861.14 of this Part for the purpose of conducting a raffle as defined in Subsection A of this Section in any municipality or parish the governing authority of which has decided to permit raffles, bingo, and keno within its limits as provided in R.S. 33:4861.3, provided the municipality or parish finds, upon such application, that the charitable organization is conducting such raffle for the purpose of providing support to any elementary or secondary school in the municipality or parish or for other purposes of community support.

E. Notwithstanding any other provision of this Part to the contrary, no municipal or parish governing authority shall license any organization as authorized in this Part unless that organization has first obtained a charitable gaming license from the division, as further provided in R.S. 40:1485.4.

F. (1) No person or organization shall hold, operate, or conduct any game of chance enumerated in Subsection A of this Section without obtaining a charitable gaming license or a special charitable gaming license from the division, as further provided in R.S. 40:1485.5.

(2) Organizations closely connected to one another shall not hold, operate, or conduct any game of chance enumerated in Subsection A of this Section under a single state charitable gaming license. Each organization shall be required to obtain a separate license from the division in order to conduct such games. Any otherwise eligible organization shall be deemed to be closely connected when:

(a) Membership in one organization automatically qualifies an individual as a member of another organization;

(b) Membership in one organization is dependent upon membership in another organization, including social membership; or

(c) The existence of an organization is dependent upon the existence of another organization.

(3) Notwithstanding the provisions of R.S. 33:4861.4(F)(2), a chartered auxiliary group associated with a nonprofit, licensed organization shall not be required to obtain a separate license in order to assist in the holding, operating, or conducting of any game of chance being operated by the parent organization. The parent organization shall notify the division of charitable gaming control annually of the names of members who will assist in the gaming operations. Nothing in this Section shall prohibit a qualified chartered auxiliary group from receiving its own gaming license.

G. Any organization whose charitable gaming license is not renewed for any reason, including withdrawal, revocation, suspension, denial, or failure to renew, shall disburse all net gaming proceeds, as provided for in Subsection B of this Section, not later than six months of expiration or loss of license and shall certify to the division that the disbursement of such funds has been completed.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1. Amended by Acts 1979, No. 343, § 1; Acts 1979, No. 498, § 1; Acts 1985, No. 373, § 1; Acts 1985, No. 823, § 1; Acts 1985, No. 989, § 1; Acts 1986, No. 752, § 1, eff. July 8, 1986; Acts 1986, No. 1070, § 1; Acts 1987, No. 526, § 1, eff. July 9, 1987.

1999 Electronic Pocket Part Update

Amended by Acts 1990, No. 190, § 1; Acts 1991, No. 149, § 1; Acts 1993, No. 511, § 1, eff. June 10, 1993; Acts 1993, No. 515, § 1; Acts 1993, No. 527, § 1; Acts 1993, No. 989, § 1; Acts 1995, No. 968, § 1; Acts 1995, No. 1294, § 1; Acts 1997, No. 1192, § 3.

<General Materials (GM) - References, Annotations, or Tables>

## HISTORICAL AND STATUTORY NOTES

### 1999 Electronic Pocket Part Update

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in subpar. A(3) as amended by Acts 1995, No. 1294, "R.S. 33:4861.26" was changed to "R.S. 33:4861.27".

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in subsec. D of this section as amended by Acts 1997, No. 1192, § 3, "Subsection A of this Section" was inserted in place of "R.S. 33:4861.4(A)(1)".

### 1988 Main Volume

Acts 1979, No. 343, § 1 and Acts 1979, No. 498, § 1 amended the prior subject matter of this section in a substantially identical manner, designating it as subsec. A, substituting "for such licensee" for "such license", and deleting "and" before "to sell shares".

Acts 1979, No. 343, § 1, also, added "exemption" to the section heading and added a subsec. B, concerning senior citizen recreation clubs, which has been redesignated as subsec. C, on authority of R.S. 24:253.

Acts 1979, No. 498, § 1, also, added subsec. B, concerning Mardi Gras carnival organizations.

Acts 1985, No. 373, § 1, in subsec. B, inserted "and in the parishes of LaFourche and Vermilion,", and substituted ", the governing authority of the parish or any municipality" for "any incorporated municipality or the governing body of such parishes", and, in the second sentence, substituted "an organization which presents pre-Lenten festivities, including street parades, and" for "one which".

On authority of R.S. 24:253, in subsec. B as amended by Acts 1985, No. 373, § 1, in the first sentence, a comma was inserted following "fifty thousand".

Acts 1985, No. 823, § 1, in subsec. A, inserted "which possess the appropriate nonprofit designation issued by the federal Internal Revenue Service,", deleted "and" following "accordingly,", and inserted "and the game of chance commonly known as pull-tabs played for prizes with cards or tickets and as defined in R.S. 33:4861.2,".

Acts 1985, No. 989, § 1, in subsec. B, in the first sentence, deleted "parishes having a population over four hundred fifty thousand in" following "In", and substituted "the governing authority of any parish or municipality may" for "any incorporated municipality or the governing body of such parishes may also".

On authority of R.S. 24:253, in subsec. B, as amended by Acts 1985, No. 989, § 1, in the first sentence, a comma was inserted following "Section" where it first appears.

Acts 1985, No. 373, § 1 and Acts 1985, No. 989, § 1 amended subsec. B of this section by conflicting language. On authority of R.S. 24:253, both versions of subsec. B were set out.

Acts 1986, No. 752, § 1, effective July 8, 1986, substituted "exemptions; requirement for state license" for "exemption" in the section heading, and added subsecs. D and E.

Acts 1986, No. 1070, § 1, effective Aug. 30, 1986, rewrote the section which had provided:

"A. It shall be lawful for any incorporated municipality or, in absence of such municipality, the governing body of any parish to license bona fide veterans, charitable, educational, religious, or fraternal organizations, civic and service clubs, which possess the appropriate nonprofit designation issued by the federal Internal Revenue Service, to hold and operate the specific kind of game or games of chance commonly known as raffle or raffles played by drawing for prizes or the allotment of prizes by chance, by the selling of shares or tickets or rights to participate in such game or games and by conducting the game or games accordingly, the game of chance commonly known as bingo or keno played for prizes with cards bearing numbers or other designations, five or more in one line, the holder covering numbers, as objects, similarly numbered, are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such a card, and the game of chance commonly known as pull-tabs played for prizes with cards or tickets and as defined in R.S. 33:4861.2, by selling shares or tickets or rights to participate in such games and by conducting the games accordingly when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious, or public spirited uses, and when so licensed, to hold, operate, and conduct such games of chance exclusively by its active members pursuant to this Part and for such licensee in such municipality or parish, to sell shares or tickets or rights to participate in such game or games of chance therein, and under such conditions and regulations for the supervision and conduct thereof, as shall be prescribed by rules and regulations duly adopted, from time to time, by the municipality or governing body of the parish not inconsistent with the provisions of this Part, and for any person or persons to participate in and play such games of chance conducted under any license.

"B. In parishes having a population over four hundred fifty thousand, and in the parishes of Lafourche and Vermilion, in addition to the authority granted in Subsection A of this Section, the governing authority of the parish or any municipality may also license Mardi Gras carnival organizations to hold and operate the specific kind of game or games of chance enumerated in Subsection A of this Section. A Mardi Gras carnival organization for the purpose of this Part shall be defined as an organization which presents pre-Lenten festivities, including street parades, and has received a permit to parade from a municipality or parish governing authority. (Text of B as amended by Acts 1985, No. 373, § 1)

"B. In addition to the authority granted in Subsection A of this Section, the governing authority of any parish or municipality may license Mardi Gras carnival organizations to hold and operate the

specific kind of game or games of chance enumerated in Subsection A of this Section. A Mardi Gras carnival organization for the purpose of this Part shall be defined as one which has received a permit to parade from a municipality or parish governing authority. (Text of B as amended by Acts 1985, No. 989, § 1)

"C. A bona fide senior citizen recreation club, upon application to the municipality or parish, shall be exempt from the licensing and reporting procedure enumerated in R.S. 33:4861.5 through R.S. 33:4861.14 of this Part in a municipality or parish whose governing authority has decided to permit raffles, bingo, and keno within its limits as provided in R.S. 33:4861.3. A senior citizen recreation club for the purpose of this Part shall be defined as an organization, which is sanctioned by the local council on aging, composed of a group of persons sixty years of age or older whose only function is to provide amusement and diversion for its members."

On authority of R.S. 24:253, subsecs. D and E of this section added by Acts 1986, No. 752, § 1, eff. July 8, 1986, were redesignated as subsecs. E and F and subsecs. A to D as amended by Acts 1986, No. 1070, § 1, eff. Aug. 30, 1986, were set out above.

The 1987 amendment, in the introductory paragraph of subsec. A, substituted "charitable organizations, as defined in R.S. 33:4861.2(1)" for "bona fide veterans, charitable, educational, religious, or fraternal organizations, civic and service clubs, which possess the appropriate nonprofit designation issued by the federal Internal Revenue Service"; and rewrote subsec. C which prior thereto read:

"C. In addition to the authority granted in Subsection A of this Section, the governing authority of any parish or municipality may license Mardi Gras carnival organizations to hold and operate the specific kind of game or games of chance enumerated in Subsection A of this Section. A Mardi Gras carnival organization for the purpose of this Part shall be defined as one which has received a permit to parade from a municipality or parish governing authority."

#### NOTES OF DECISIONS

Bankruptcy, effect 2  
Charitable organization 1  
Electronic games 3.5  
Employees 3.7  
Fees 4  
Licenses 3

##### 1. Charitable organization

Nonprofit corporation organized for preservation and maintenance of exotic felines was not "charitable organization," for purposes of city's bingo ordinance, where recipients of avowed charitable intention were exotic animals, rather than human beings. Exotic Feline Survival Ass'n, Inc. v. City of Hammond, App. 1 Cir.1985, 479 So.2d 645.

Purportedly nonprofit corporation which conducted bingo games and games of chance resulting in approximately 1.3 million dollars gross

receipts and single \$500 donation to needy organization during two and one-half month period was not within purview of exemption of this section to prohibition of Const. Art. 12, § 6 and R.S. 14:90.2 against gambling provided by Charitable Raffles, Bingo and Keno Licensing Law (R.S. 33:4861 et seq.), and such games could be permanently enjoined as public nuisance. State v. Opelousas Charity Bingo, Inc., App. 3 Cir.1985, 462 So.2d 1380.

## 2. Bankruptcy, effect

An organization's filing for Chapter 11 bankruptcy [11 U.S.C.A. § 1101 et seq.] does not preclude the state from exercising its power to suspend or revoke the organization's license to gamble as a non-profit organization. Op.Atty.Gen., No. 87-663, Nov. 9, 1987.

## 3. Licenses

Public high school booster clubs may generate funds for the school by bingo games when properly licensed but do not need tax exemption from the IRS. Op.Atty.Gen., No. 90-187, May 4, 1990.

Charitable organizations, exempt under this section from prohibition in R.S. 14:90, in conducting a "Las Vegas Night" must be licensed by the Louisiana State Police Charitable Gaming Division, and persons furnishing supplies and equipment for the conduct of such activity must also be licensed by the Gaming Division under R.S. 33:4861.19. Op.Atty.Gen., No. 87-169, March 2, 1987.

### 3.5. Electronic games

Other than electronic video bingo and keno, authorized for play under the authority of La. R.S. 33:4861.4A(2), read in conjunction with La. R.S. 33:4861.17, other electronic video games including pull tabs are not authorized under provisions of La. R.S. 33:4861.1, et seq. Op.Atty.Gen., No. 94-430, Nov. 4, 1994.

### 3.7. Employees

The legislative auditor and his employees are prohibited from participating in charitable gaming activity, including church or school-sponsored bingo and raffles which are conducted at a church or school establishment or at any commercial or non-commercial establishment. Op.Atty.Gen. No. 96-80, July 19, 1996.

## 4. Fees

License fees of municipalities and parishes for games of raffles, bingo, and keno pursuant to Charitable Raffles Bingo and Keno Licensing Law must be reasonably related to costs of regulation; excessive license fee may constitute illegal tax. Op.Atty.Gen., No. 90-677, Feb. 22, 1991.

LSA-R.S. 33:4861.4

LA R.S. 33:4861.4

END OF DOCUMENT

LA R.S. 27:241  
LSA-R.S. 27:241

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 5. THE LOUISIANA ECONOMIC DEVELOPMENT AND GAMING CORPORATION  
LAW  
PART VI. LAND-BASED CASINO OPERATING CONTRACT

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 241. Board to let contract to conduct casino gaming operations; bid specifications; compensation of casino gaming operator

A. Notwithstanding any provision of law to the contrary, the board of directors shall publicly advertise, offer, and let, in accordance with the provisions of this Chapter, a contract to conduct casino gaming operations at a single official gaming establishment to be located upon the site of the Rivergate Convention Center in Orleans Parish. The term of the contract and any option to extend or renew may not exceed a total of twenty years primary term and one ten-year renewal option. The contract or renewal option to conduct casino operations shall not be subject to sale, alienation, assignment, or transfer by the casino gaming operator except as provided for in this Chapter.

B. The board shall devise a bid containing such specifications and requirements for the conducting of casino gaming operations as it determines will maximize economic development and revenues to the state from such operations and accomplish and promote the public policies set forth in this Chapter. Such bid may contain specific requirements or limitations regarding the location, quantity, and nature of games and gaming devices, hours of operation, security and internal control, the granting of credit to patrons, acquiescence in proposed rules and regulations and express resolatory conditions, and provisions providing for reciprocal remedies, rights, and damages upon breach and cancellation.

C. The bid let by the board shall require a minimum compensation to be paid to the corporation of eighteen and one-half percent of gross revenues, or one hundred million dollars annually, whichever is greater. The bid shall allow an applicant to offer a proposal for compensation of a higher percentage of gross revenues, or a higher fixed dollar amount.

D. The bid may also request and allow consideration of proposals which provide for construction of different kinds of an official gaming establishment (the official gaming establishment must provide at least one hundred thousand square feet of usable space in a single structure), the creation of specific numbers of jobs, services to be provided to the state, local government, or the corporation, investment of specified amounts in construction and development, and such other

factors or items which the board deems to be in furtherance of the objectives of this Chapter.

E. The bid let shall state or list the factors which the board will use in evaluating the proposals to conduct casino gaming operations and the approximate weight each factor will receive in selecting the winning proposal. Assumptions regarding probable patronage of the official gaming establishment, revenue or play for each kind of game or gaming device, estimated payout to patrons, and expenses of the casino operator may be made and utilized in determining bid specifications and the award thereof. If such assumptions are to be utilized by the board in the evaluation and comparison of the bids submitted, they shall be stated in the bid offered by the president.

F. The board shall select the bid which in its opinion accomplishes the objectives of this Chapter, including revenue to the corporation, as evaluated and weighted according to the terms of the bid.

G. The casino operating contract shall provide that the contract is exclusive and that no other official gaming establishment shall be contracted or licensed in the same parish during the term of the casino operating contract or any renewals or extensions thereof.

H. (1) In the event that, at any time while the casino operating contract is in effect, through or as a result of the action of any or all or any combination of the legislature, the state of Louisiana, or any political subdivision or agency thereof, the corporation, any law enforcement entity, authority, or persons, or any other entities, authorities, persons, firms, or corporations, one or more land-based casino gaming establishments in addition to the single casino gaming operation provided for by this Chapter are authorized to operate in the parish of the official gaming establishment, the casino operating contractors shall be relieved of the obligation to remit to the corporation the compensation required under the provisions of the Casino Gaming Operating Contract. For purposes of this Section, the conduction of gaming operations upon riverboats in accordance with the Louisiana Riverboat Economic Development and Gaming Control Act [FN1] or otherwise while upon a designated waterway while temporarily at dockside, video poker operations authorized pursuant to the Video Draw Poker Devices Control Law, [FN2] authorized charitable gaming activities, lottery games conducted pursuant to the provisions of the Louisiana Lottery Corporation Law, [FN3] pari-mutuel wagering as authorized by the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, [FN4] and any other form of gambling or gaming not prohibited when the casino operating contract is executed shall not constitute the authorization of additional land-based casino gaming operations which relieves the casino gaming operator of payment of compensation to the corporation. Nothing in this Subsection shall be construed to authorize dockside gaming.

(2) In the event that litigation arises between the casino gaming operator and either the corporation or the state of Louisiana or any of its political subdivisions, the casino gaming operator shall continue to make all payments to the corporation and to the state of Louisiana and any of its political subdivisions as required by law during the pendency of such litigation. In addition to any other legal remedies,

failure to make the required payments shall render the casino gaming operator unsuitable.

I. In addition, the casino gaming operator shall have the further right and be further entitled to obtain and be granted specific performance of the casino operating contract.

J. The bid issued by the board and the proposal selected may authorize the casino operator having the winning proposal to conduct limited temporary gaming operations in the parish where the official gaming establishment is located, at a location designated by the casino operator and approved by the board. The conducting of such temporary gaming operation may be considered by the board in selecting a final proposal with compensation to the corporation and the state being not less than twenty-five percent of gross revenues with the remainder to the casino operator the net proceeds therefrom after deducting operating expenses to be utilized to perform and complete the obligations of the operator as contained in the casino operating contract and proposal. Temporary gaming operations shall cease upon the commencement of gaming operations at the official gaming establishment.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996. Amended by Acts 1996, 1st Ex.Sess., No. 62, § 1.

[FN1] Louisiana Riverboat Economic Development and Gaming Control Act, see R.S. 27:41.

[FN2] Video Draw Poker Devices Control Law, see R.S. 27:301 et seq.

[FN3] Louisiana Lottery Corporation Law, see R.S. 47:9000 et seq.

[FN4] Chapter 4 of Title 4, see R.S. 4:141 et seq.

<General Materials (GM) - References, Annotations, or Tables>

CONSTRUCTION AND APPLICATION

<Section 1 of Acts 1996, 1st Ex.Sess., No 62 amended subsec. H of this section. Section 2 of Acts 1996, 1st Ex.Sess., No. 62, provides:>

<"Section 2. The provisions of this Act are not intended to make any change in the law, but are intended to clarify the intent of the legislature when it enacted Act No. 384 of the 1992 Regular Session of the Legislature. To that end, the provisions of this Act are declared to be remedial and shall have application from the effective date of Act No. 384 of the 1992 Regular Session of the Legislature.">

<Acts 1992, No. 384 enacted the Louisiana Economic Development and Gaming Corporation Law, (R.S. 4:601 et seq.; now redesignated as R.S. 27:201 et seq.), including this section within its scope.>

HISTORICAL AND STATUTORY NOTES

## 1999 Electronic Pocket Part Update

### Source:

Acts 1992, No. 384, § 1.  
R.S. 4:641.

Acts 1996, 1st Ex.Sess., No. 62 amended this section relative to dockside gaming and payment of fees by land-based casino operators. The amendment designated the existing paragraph of subsec. H as par. H(1), and rewrote this paragraph, and added par. H(2), requiring continued payment of fees pending litigation between casino operators and regulatory entities. Prior to 1996 revision, subsec. H read:

"H. In the event that, at any time while the casino operating contract is in effect, through or as a result of the action or inaction of any or all, or any combination of the legislature, the state of Louisiana or any political subdivision or agency thereof, the corporation, any law enforcement entity or authority or persons, or any other entities, authorities, persons, firms, or corporations, one or more land-based casino gaming establishments in addition to the single casino gaming operation provided for by this Chapter is authorized to operate in the parish of the official gaming establishment, the casino operating contractors shall be relieved of the obligation to remit to the corporation the compensation required under the provisions of the Casino Gaming Operating Contract. For purposes of this Section, the conduction of gaming operations upon riverboats in accordance with the Louisiana Riverboat Economic Development and Gaming Control Act, video poker operations authorized pursuant to the Video Draw Poker Devices Control Law, authorized charitable gaming activities, lottery games conducted pursuant to the provisions of the Louisiana Lottery Corporation Law and pari-mutuel wagering as authorized by the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950 shall not constitute the authorization of additional land-based casino gaming operations, which relieves the casino gaming operator of payment of compensation to the corporation."

R.S. 4:641 was redesignated as R.S. 27:241 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

Citing the filing, by the casino gaming operator, of a petition for relief in the United States Bankruptcy Court, the vendors who have provided goods and services to the casino gaming operator and the employment and other indirect economic opportunities provided by these creditors to the citizens of Louisiana, House Concurrent Resolution No. 86 of the 1996 Regular Session urges and requests that the Louisiana Gaming Control Board include a requirement for full payment of all legitimate claims of unsecured creditors in any plans by any party seeking to become the casino gaming operator for the official gaming establishment.

### NOTES OF DECISIONS

Contracts 2  
Validity 1

## 1. Validity

Statutes authorizing licensing of gaming operations did not violate constitutional mandate to suppress gambling; legislature was entitled to define gambling and to exempt from that definition certain forms of gambling not prohibited by Constitution. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations did not unconstitutionally delegate legislative authority to executive branch of government. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations, which restricted collection of local taxes, did not unconstitutionally abrogate taxing powers granted to city of New Orleans pursuant to its home rule charter; gaming statutes were enacted pursuant to valid exercise of state's police power, and legislature was constitutionally empowered by general law to deny or revoke delegation of function or power to home rule government when necessary to prevent abridgment of state's police power. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations were not unconstitutional "local" or "special" laws, even though their immediate application was limited as to parties and localities; issue was matter of state-wide concern, and legislature was entitled to determine that single facility or type of facility within state was in state's best interest. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Proposed contracts with the Economic Development and Gaming Corporation which provided for a payment to the state to be repaid with interest or which contained conditions and waiver of statutorily mandated compensation were violative of the Economic Development and Gaming Corporation Act and the provisions on debt in the Louisiana Constitution. Op.Atty.Gen., No. 93-462, July 19, 1993.

## 2. Contracts

Proposed contracts with the Economic Development and Gaming Corporation which provided for a payment to the state to be repaid with interest or which contained conditions and waiver of statutorily mandated compensation were violative of the Economic Development and Gaming Corporation Act and the provisions on debt in the Louisiana Constitution. Op.Atty.Gen., No. 93-462, July 19, 1993.

LSA-R.S. 27:241

LA R.S. 27:241

END OF DOCUMENT

LA R.S. 40:1485.4

LSA-R.S. 40:1485.4

LOUISIANA REVISED STATUTES  
TITLE 40. PUBLIC HEALTH AND SAFETY  
CHAPTER 6. DEPARTMENT OF PUBLIC SAFETY

PART VIII. REGULATION OF CHARITABLE GAMING

Current through all 1998 1st Ex.Sess. and Reg. Sess. Acts

§ 1485.4. Division functions, duties, and responsibilities

The division shall have the following functions, duties, and responsibilities:

(1) To issue and renew annual state licenses required by law for organizations conducting games of chance pursuant to the Charitable Raffles, Bingo, and Keno Licensing Law, [FN1] for manufacturers or distributors of supplies or equipment for such games, and for commercial lessors of premises on which such games are conducted.

(2) To assess and collect the following fees and taxes for issuance of licenses and special licenses and for license renewal as follows:

(a) Manufacturer's license and renewal fee shall be two thousand five hundred dollars.

(b) Distributor's license and renewal tax shall not be more than two hundred fifty dollars, except the license and renewal fee for a private contractor licensed to conduct games of chance authorized under the provisions of R.S. 33:4861.24 shall be two hundred dollars.

(c) Licensed organization's license and renewal fee shall be fifty dollars.

(d) Special Events license and renewal fee shall be one hundred dollars.

(e) Commercial lessor's license and renewal fee shall be two hundred dollars.

(3) To establish and collect a fee of not more than three percent of the ideal net proceeds at the point of sale on all pull tabs or break open tickets and a fee of not more than five percent on the actual value of all other gaming supplies.

(4) To deny applications for licensure or license renewal and to issue orders for restriction, suspension, or revocation of licenses issued pursuant to R.S. 40:1485.5.

(5) To establish and assess fees for identification stamps to be affixed to gaming supplies and equipment by manufacturers and distributors of such supplies or equipment as further provided in R.S. 33:4861.19.

(6) To monitor licensees to ensure compliance with all provisions of law and regulations relative to charitable gaming through routine scheduled and unscheduled inspections and when warranted, investigations and audits.

(7) To enforce all provisions of law and regulations relative to charitable gaming and to assist local law enforcement agencies in these enforcement responsibilities.

(8) To establish and assess penalties for violations of provisions of law or regulations relative to gambling or charitable gaming, not to exceed five thousand dollars per violation, as further provided in R.S. 40:1485.6(D).

(9) To familiarize the general public, and in particular members of organizations which conduct charitable games of chance, with provisions of the Charitable Raffles, Bingo, and Keno Licensing Law [FN1] and other applicable laws and regulations.

(10) To adopt rules and regulations to provide for the sale or transfer of surplus supplies or equipment from one licensed organization to another and such other rules and regulations as are necessary to carry out the purposes and functions of this Part in accordance with the Administrative Procedure Act. [FN2]

(11)(a) To determine certain person or persons in certain relationships between an applicant or licensee and other persons to be unsuitable to participate in charitable gaming and to bar any such persons from participation in charitable gaming after notice and opportunity for hearing in accordance with the Administrative Procedure Act.

(b) In determining the suitability of an applicant, licensee, or other person, the division shall consider the person's:

(i) General character, including honesty and integrity.

(ii) Financial security and stability, competency, and business experience.

(iii) Record, if any, of violations which may affect the legal and proper operation of charitable gaming, including a violation affecting another licensee or applicant, and any violation of the laws of this state or other states or countries, without limitations as to the nature of the violation.

(iv) Prior activities, arrest, or criminal record, if any, reputation, habits, and associations which may pose a threat to the public interest of this state or to the effective regulation and control of gaming operations, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming operations or the carrying on of the business and financial arrangements incidental thereto.

(v) Refusal to provide records, information, equipment, or access to premises to any member of the division or any peace officers when such access is reasonably necessary to insure or protect public health, safety, or welfare or to insure the integrity of the charitable gaming industry or security of charitable gaming proceeds.

(vi) Association or relationship to other applicants or licensees.

CREDIT(S)

1992 Main Volume

Added by Acts 1986, No. 752, § 3, eff. July 8, 1986. Amended by Acts 1990, No. 767, § 1; Acts 1991, No. 150, § 1; Acts 1991, No. 160, § 1.

#### 1999 Electronic Pocket Part Update

Amended by Acts 1992, No. 920, § 1; Acts 1993, No. 514, § 1; Acts 1993, No. 990, § 1; Acts 1993, No. 992, § 1; Acts 1998, No. 52, § 1.

[FN1] R.S. 33:4861.1 et seq.

[FN2] R.S. 49:950 et seq.

#### HISTORICAL AND STATUTORY NOTES

##### 1999 Electronic Pocket Part Update

The 1992 amendment, in subpar. (2)(a), increased the manufacturer's license and renewal fee from "two hundred dollars" to "two thousand five hundred dollars"; and in subpar. (2)(b), increased the distributor's license and renewal fee from "one hundred dollars" to "two thousand five hundred dollars".

Acts 1993, No. 514 limited permissible penalties to a maximum of five thousand dollars per violation.

Acts 1993, No. 990, § 1, in the section heading, substituted a semicolon for a comma following "functions"; and added, to the end of subpar. (2)(b), ", except the license and renewal fee for a private contractor licensed to conduct games of chance authorized under the provisions of R.S. 33:4861.24 shall be two hundred dollars".

Acts 1993, No. 992, § 1 added par. (11) providing for determining the unsuitability of applicants, licensees, and certain other persons to participate in charitable gaming operations.

Acts 1998, No. 52, in the introductory paragraph of par. (2), inserted "and taxes" following "fees"; and in subpar. (2)(b), substituted "renewal tax shall not be more than two hundred fifty dollars" for "renewal fee shall be two thousand five hundred dollars".

##### 1992 Main Volume

The 1990 amendment, in par. (1), following "Keno Licensing Law", substituted a comma for "and"; and added the final clause relating to commercial lessors; and added subpar. (2)(e), also relating to commercial lessors.

Acts 1991, No. 150, § 1, inserted "restriction," following "orders for" in par. (4).

Acts 1991, No. 160, § 1, substituted, in par. (8), "gambling or charitable gaming," for "charitable gaming".

#### CROSS REFERENCES

Charitable raffles, bingo and keno licensing law, application to, see R.S. 33:4861.16.

LSA-R.S. 40:1485.4

LA R.S. 40:1485.4

END OF DOCUMENT

LA R.S. 33:4861.12

LSA-R.S. 33:4861.12

LOUISIANA REVISED STATUTES

TITLE 33. MUNICIPALITIES AND PARISHES

CHAPTER 14. EXERCISE OF POLICE POWER

PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 4861.12. Personnel to hold games; commissions or salaries; equipment and supplies; expenses

A. (1) No person shall hold, operate, or conduct or assist in holding, operating, or conducting any game or games of chance under any license issued under this Part except an active member of the organization or association to which the license is issued.

(2)(a) No commission, salary, compensation, reward, or recompense, including but not limited to granting or use of bingo cards without charge or at a reduced charge, shall be paid or given directly or indirectly to any person holding, operating, or conducting any licensed game or games of chance.

(b) Any person, association, or corporation licensed to hold, operate, or conduct any games of chance under any license issued pursuant to this Part may compensate, for services rendered, any ten employees who assist in the holding, operating, or conducting of such games. The rate of compensation shall be no more than ten dollars per hour and in any event shall not exceed fifty dollars per session for any employee. Each employee or volunteer worker may also be provided meals and beverages to be eaten on the premises not to exceed a total value of fifteen dollars per person. Expenditures made under the provisions of this Subsection shall be subject to the reporting provisions of R.S. 33:4861.13. Compensation provided for in this Paragraph shall not constitute a violation of the prohibition against the payment or giving of a commission, salary, compensation, reward, or recompense to any person holding, operating, or conducting any such game.

(3) No manufacturer, distributor, commercial lessor, or his agents or employees, who directly or indirectly leases premises or sells, leases, or otherwise distributes gaming supplies or equipment, or furnishes any commodities or services in relation to the conduct of any charitable game of chance shall take part in the holding, operation, or conduct of a game of chance. However, nothing in this Part shall prohibit the

owner of a premises from having a representative present to protect his interests in the premises.

(4) No such game of chance shall be conducted with any supplies or equipment except such as shall be owned absolutely, provided without payment of any compensation by the licensee, or purchased from a licensed manufacturer or distributor of such supplies or equipment, unless permitted by rules of the division.

(5) No item of expense shall be incurred or paid in connection with the holding, operating, or conducting of any game of chance held, operated, or conducted pursuant to any license issued under this Part, except such as are bona fide items of reasonable amount of goods, wares, and merchandise furnished or services rendered, which are reasonably necessary to be purchased or furnished for the holding, operating, or conducting thereof, under any circumstances whatever.

(6) No licensee shall pay any consulting fees to any person for any service performed in relation to the conduct of any charitable game of chance or concession fees to any person who provides refreshments to the participants in any such games.

(7) No lease providing for a rental arrangement for premises or equipment shall provide for payment in excess of the reasonable market rental rate for such premises or equipment and in no case shall any payment be based on a percentage of gross receipts or profits derived from a game of chance.

B. (1) No person shall hold, operate, or conduct or assist in holding, operating, or conducting of any game or games of chance under any license issued under this Part except an active member of the organization or association to which the license is issued and no such game of chance shall be conducted with any equipment except such as shall be owned absolutely or used without payment of any compensation therefor by the licensee, and no item of expense shall be incurred or paid in connection with the holding, operating, or conducting of any game of chance, held, operated, or conducted pursuant to any license issued under this Part, except such as are bona fide items of reasonable amount of goods, wares, and merchandise furnished or services rendered, which are reasonably necessary to be purchased or furnished for the holding, operating, or conducting thereof, under any circumstances whatever, and no commission, salary, compensation, reward, or recompense whatever shall be paid or given, directly or indirectly, to any person holding, operating, or conducting, or assisting in the holding, operation, or conduct, of any game of chance so held, operated, or conducted.

(2) Notwithstanding any provision of law to the contrary, any person, association, or corporation licensed to hold, operate, or conduct any games of chance that benefit the visually and/or hearing impaired, paraplegics, quadriplegics, mentally retarded, or persons sixty years of age or older, under any license issued pursuant to this Part, may compensate for services rendered, any ten employees who assist in the holding, operating, or conducting of such games. The rate of compensation shall be no more than thirty dollars per day. Each employee or volunteer worker may also be provided meals and beverages to be eaten on the premises not to exceed a total value of fifteen

dollars per person. Expenditures made under the provisions of this Subsection shall be subject to the reporting provisions of R.S. 33:4861.13. Compensation provided for in this Subsection shall not constitute a violation of the prohibition against the payment or giving of a commission, salary, compensation, reward, or recompense to any person holding, operating, or conducting, or assisting in the holding, operation, or conduct of any such game.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1968, No. 609, § 1. Amended by Acts 1986, No. 752, § 1, eff. July 8, 1986; Acts 1986, No. 1023, § 1; Acts 1989, No. 599, § 1; Acts 1989, No. 820, § 1; Acts 1990, No. 915, § 1; Acts 1993, No. 821, § 1; Acts 1995, No. 557, § 1; Acts 1997, No. 182, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Section 2 of Acts 1989, No. 599 (§ 1 of which amends this section as amended by Acts 1986, No. 1023) provides:

"This Act shall not be construed to amend or repeal the provisions of R.S. 33:4861.12 as amended by Act No. 752 of the 1986 Regular Session of the Legislature; however, the provisions of R.S. 33:4861.12(B) shall continue to operate as an exception to R.S. 33:4861.12(B) as amended by said Act No. 752."

Section 2 of Acts 1989, No. 820 (§ 1 of which amends this section as amended by Acts 1986, No. 752) provides:

"This Act shall not be construed to amend or repeal the provisions of R.S. 33:4861.12 as amended by Act. No. 1023 of the 1986 Regular Session of the Legislature."

Acts 1989, No. 599, § 1 amends R.S. 33:4861.12 as amended by Acts 1986, No. 1023, § 1, and Acts 1989, No. 820, § 1 amends subsec. B of R.S. 33:4861.12 as amended by Acts 1986, No. 752, § 1. On authority of R.S. 24:253, subsecs. A to G of R.S. 33:4861.12 as amended by Act 752 were redesignated as pars. A(1) to A(7) of R.S. 33:4861.12, and subsecs. A and B of R.S. 33:4861.12 as amended by Act 1023 were redesignated as pars. B(1) and B(2) of R.S. 33:4861.12. These redesignations consolidated into a single text the two differing versions of R.S. 33:4861.12 created by the conflicting 1986 amendments.

On the same authority, the heading of this section as amended by Acts 1986, No. 1023 was retained, and in the fourth sentence of subpar. A(2)(a), "Paragraph" was substituted for "Subsection".

1988 Main Volume

Acts 1986, No. 752, § 1 rewrote the section heading and the section, which had provided:

"§ 4861.12. Persons entitled to hold games; equipment; expenses; commissions or salaries

"No person shall hold, operate or conduct or assist in holding, operating or conducting of any game or games of chance under any license issued under this Part except an active member of the organization or association to which the license is issued, and no such game of chance shall be conducted with any equipment except such as shall be owned absolutely or used without payment of any compensation therefor by the licensee, and no item of expense shall be incurred or paid in connection with the holding, operating or conducting of any game of chance, held, operated or conducted pursuant to any license issued under this Part, except such as are bona fide items of reasonable amount of goods, wares and merchandise furnished or services rendered, which are reasonably necessary to be purchased or furnished for the holding, operating or conducting thereof, under any circumstances whatever, and no commission, salary, compensation, reward or recompense whatever shall be paid or given, directly or indirectly, to any person holding, operating or conducting, or assisting in the holding, operation or conduct, of any game of chance so held, operated or conducted."

Acts 1986, No. 1023, § 1 also rewrote the section.

In the section as rewritten by Acts 1986, No. 1023, § 1, "the" was inserted preceding "holding" in subsec. A, on authority of R.S. 24:253.

Acts 1986, No. 752, § 1 and Acts 1986, No. 1023, § 1 amended this section with conflicting language. On authority of R.S. 24:253, the provisions of both Acts were printed.

#### NOTES OF DECISIONS

Commission, salary or reward 1  
Construction and application 3/4  
Leases 2  
Permissible activities 3  
Persons authorized to participate 3.5  
Private contracts 4  
Validity 1/2

#### 1/2. Validity

Statutes prohibiting any person from conducting charitable gaming except active members of organization or association to which license is issued and prohibiting manufacturer, distributor, or commercial lessor of equipment or premises to licensed organization from taking part in the operation or conduct of game of chance are not unconstitutionally vague. *Devillier v. State*, Dept. of Public Safety and Corrections, Public Safety Services, Office of State Police, Div. of Charitable Gaming Control, Gaming Enforcement Section, App. 1 Cir.1993, 634 So.2d 884, writ denied 94-0224 (La. 3/18/94), 635 So.2d 1101.

#### 3/4. Construction and application

Statutes dealing with those persons who may conduct charitable gaming, when read together, provide that active members of licensed organization may participate in charitable gaming, but not if the person is a commercial lessor. *Devillier v. State*, Dept. of Public Safety and Corrections, Public Safety Services, Office of State Police, Div. of Charitable Gaming Control, Gaming Enforcement Section, App. 1 Cir.1993, 634 So.2d 884, writ denied 94- 0224 (La. 3/18/94), 635 So.2d 1101.

#### 1. Commission, salary or reward

No one assisting in a bingo game may be paid a salary, and assistants must be members of the authorized non-profit organization conducting the game. Op.Atty.Gen., No. 88-57, Feb. 2, 1988.

#### 2. Leases

Individual who leases his premises to non-profit organizations for bingo cannot require those organizations to forward to him all prize money before each session, and can only charge the reasonable market value for rental. Op.Atty.Gen., No. 89-89, March 16, 1989.

#### 3. Permissible activities

Unless specifically authorized by statute, notwithstanding the provisions of LSA-R.S. 33:4861.17, method of playing bingo utilizing electronic video images of cards is not permitted. Op.Atty.Gen., No. 92-576, March 10, 1993.

Activities conducted solely for the purpose of educational, charitable, religious or public spirited uses are permissible under this section of the "Charitable Raffles, Bingo and Keno Licensing Law." Op.Atty.Gen., No. 88-654, Jan. 19, 1989.

#### 3.5. Persons authorized to participate

A professional interpreter for the deaf, whose sole purpose is to provide the service of communication between the deaf volunteer worker and the hearing public, and who does not otherwise conduct or aid or assist in the conduct of the game, is providing an incidental service for which compensation is allowed by La. R.S. 33:4861.12. Op.Atty.Gen., No. 85-861, Dec. 5, 1985.

Persons who are not active members of an organization but who fall into any other class such as non-members, inactive members, auxiliary, or others who desire to help or assist the organization are not permitted to sell "shares or tickets or rights to participate in such games of chance." Op.Atty.Gen., No. 85-693A, Oct. 15, 1985.

#### 4. Private contracts

Charitable raffles, bingo and keno licensing law provisions regulating charitable gaming by nonprofit organizations and the relationships between charitable organizations and providers, did not regulate the relationship between two private, noncharitable organizations and thus did not apply to nonlicensed commercial hall owners or electronic video bingo distributors except insofar as their dealings were with

charitable organizations. American Coin Machines, Inc. v. Atiyeh, App. 1 Cir.1991, 577 So.2d 234.

Although charitable gambling licensing provision gave Attorney General authority to make rules and regulations to establish list of the manufacturers authorized to provide electronic video bingo equipment and other related functions, it did not permit the Attorney General to regulate relationships among various providers, and thus Attorney General lacked authority to regulate private contractual relationship regarding payment or rental rate charge by commercial lessor of bingo hall to distributor of electronic video bingo machines. American Coin Machines, Inc. v. Atiyeh, App. 1 Cir.1991, 577 So.2d 234.

LSA-R.S. 33:4861.12

LA R.S. 33:4861.12

END OF DOCUMENT

LA R.S. 40:1485.1

LSA-R.S. 40:1485.1

LOUISIANA REVISED STATUTES  
TITLE 40. PUBLIC HEALTH AND SAFETY  
CHAPTER 6. DEPARTMENT OF PUBLIC SAFETY  
PART VIII. REGULATION OF CHARITABLE GAMING

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 1485.1. Declaration of purpose

A. The Legislature of Louisiana does hereby recognize the state's role and responsibilities in ensuring that the net proceeds of charitable games of chance conducted pursuant to the Charitable Raffles, Bingo, and Keno Licensing Law [FN1] are contributed to bona fide charitable causes. The legislature further finds that it is in the public interest to prevent infiltration of elements of organized crime or professional gambling into charitable gaming.

B. Therefore, it shall be the policy of the state of Louisiana to decrease the potential for fraud in charitable games of chance and to increase compliance with the provisions of the Charitable Raffles, Bingo, and Keno Licensing Law and other applicable laws and regulations through monitoring and enforcement as well as public education and awareness of the purposes of these laws and regulations.

C. The purpose of this Part is to establish mechanisms to effectuate such purposes, including but not limited to:

(1) A state licensing system for charitable organizations conducting such games of chance and for manufacturers and distributors of supplies and equipment used in such games.

(2) Provision of specialized instruction and training for local law enforcement agencies and for licensees.

CREDIT(S)

1992 Main Volume

Added by Acts 1986, No. 752, § 3, eff. July 8, 1986.

[FN1] R.S. 33:4861.1 et seq.

HISTORICAL AND STATUTORY NOTES

1992 Main Volume

Title of Act:

An Act to amend and reenact R.S. 33:4861.6, 4861.7, 4861.10, 4861.11, 4861.12, 4861.13, and 4861.16, and R.S. 36:401(B)(1) and 408(B) and to enact R.S. 33:4861.2(4), (5), (6), and (7), 4861.4(D) and (E), 4861.17(G), 4861.19, and 4861.20, and Part VIII of Chapter 6 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1485.1 through 1485.7, relative to charitable raffles, bingo, and keno licensing; to create the division of charitable gaming control in the office of state police of the Department of Public Safety and Corrections; to provide for the functions, duties, and responsibilities of the division; to establish requirements for issuance of a license by the division; to establish requirements for issuance of a license by the division; to provide for licensing and regulation by parish and municipal governing authorities; to provide for additional restrictions, requirements, and prohibitions for charitable gaming organizations, manufacturers, or distributors; to provide for penalties for violations of laws and regulations relative to charitable gaming; to create the Louisiana Charitable Gaming Fund; to assess fees for license issuance, license renewal, and for identification stamps for gaming supplies and equipment; to provide for monitoring licensees for compliance with charitable gaming laws and regulations; to assess fines for violations of such laws and regulations; and to provide for related matters. Acts 1986, No. 752.

CROSS REFERENCES

Gambling, legislative power to define and suppress, see Const. Art. 12, § 6.

NOTES OF DECISIONS

Construction and application 1

1. Construction and application

Division of gaming control had authority to prohibit involvement in charitable gaming activities by those who violated statute by determining that were unsuitable persons for involvement in charitable gaming in any capacity. *Devillier v. State*, Dept. of Public Safety and Corrections, Public Safety Services, Office of State Police, Div. of

Charitable Gaming Control, Gaming Enforcement Section, App. 1 Cir.1993, 634 So.2d 884, writ denied 94-0224 (La. 3/18/94), 635 So.2d 1101.

Person who leased space where charitable gambling took place and acted as agent for owner of building was subject to the provisions of both Title 33 and Title 40 with respect to charitable gaming, notwithstanding the definition of commercial lessor in Title 33 as one who leases premises to an organization licensed under the provisions "of this Part." *Devillier v. State*, Dept. of Public Safety and Corrections, Public Safety Services, Office of State Police, Div. of Charitable Gaming Control, Gaming Enforcement Section, App. 1 Cir.1993, 634 So.2d 884, writ denied 94-0224 (La. 3/18/94), 635 So.2d 1101.

Neither LSA-R.S. 33:4861.1 et seq. nor LSA-R.S. 40:1485.1 et seq. prohibit a legislator or member of his immediate family from being licensed as a commercial lessor or from having a financial interest in a community charitable gaming premises. *Op. Atty. Gen.*, No. 93-107, April 1, 1993.

LSA-R.S. 40:1485.1

LA R.S. 40:1485.1

END OF DOCUMENT

LA R.S. 33:4861.5

LSA-R.S. 33:4861.5

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess. Acts

§ 4861.5. Application for license

A. Each applicant for such a license shall file with the division and the clerk of the municipality or with the governing body of any parish a written application therefor in the form prescribed in said rules and regulations, duly executed and verified, in which shall be stated:

(1) The name and address of the applicant together with sufficient facts relating to its incorporation and organization to enable the municipality or governing body of any parish to determine whether or not it is a bona fide organization or association;

(2) The names and addresses of its officers;

(3) The specific kind of game or games of chance intended to be held, operated, and conducted by the applicant, and the place or places where, and the date or dates and the time or times when, such game or games of chance are intended to be conducted, by the applicant, under the license applied for;

(4) The items of expense intended to be incurred or paid in connection with the holding, operating, and conducting of such game or games of

chance and the names and addresses of the persons to whom, and the purposes for which, they are to be paid;

(5) The specific purposes to which the entire net proceeds of such game or games of chance are to be devoted and in what manner;

(6) Except as provided for in R.S. 33:4861.12, that no commission, salary, compensation, reward, or recompense will be paid to any person for holding, operating, or conducting such games of chance;

(7) A description of all prizes to be offered and given in all such games of chance to be held, operated, and conducted under such license; and,

(8) Such other information as shall be prescribed by such rules and regulations.

B. In each application there shall be designated an active member or members of the applicant under whom the game or games of chance described in the application are to be held, operated, and conducted, and to the application shall be appended a statement executed by the applicant and by the member or members, so designated, that he or they will be responsible for the holding, operation, and conduct of such game or games of chance in accordance with the terms of the license and the provisions of said rules and regulations governing the holding, operation, and conduct of such game or games of chance and of this Part, if such license is granted.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1.

1999 Electronic Pocket Part Update

Amended by Acts 1989, No. 820, § 1; Acts 1993, No. 515, § 1; Acts 1993, No. 822, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Section 2 of Acts 1989, No. 820 (§ 1 of which, inter alia, this section) provided:

"This Act shall not be construed to amend or repeal the provisions of R.S. 33:4861.12 as amended by Act No. 1023 of the 1986 Regular Session of the Legislature."

In this section as amended in 1989, paragraph designations and attendant capitalization, format and punctuation changes were made in subsec. A and a comma was inserted following "and conducted" in subsec. B, all on authority of R.S. 24:253.

The Title of Act for Acts 1993, No. 515, § 1 stated that the Act amended the introductory paragraph of this section. The substance of the amended material is the same as that of subsec. A; consequently, the Louisiana State Law Institute, pursuant to its statutory revision authority, designated the paragraph amended by Act 515 as subsec. A and that paragraph is set out with par. A(6), as amended by Acts 1993, No. 822, § 1, and the remainder of the text of the section.

#### NOTES OF DECISIONS

Construction and application 1  
Use of proceeds 2

##### 1. Construction and application

There is no requirement for a bingo gambling manager to obtain a permit from the state to conduct bingo games. Op.Atty.Gen., No. 85-320, June 21, 1985.

##### 2. Use of proceeds

The charitable bingo, keno and raffle law does not authorize an incorporated municipality to license an otherwise qualified organization to conduct bingo, keno or raffle when the proceeds of such games of chance are to be devoted to the acquisition of a building to conduct bingo by the organization to be so licensed. Op.Atty.Gen., No. 85-499, Aug. 20, 1985.

LSA-R.S. 33:4861.5

LA R.S. 33:4861.5

END OF DOCUMENT

LA R.S. 33:4861.6

LSA-R.S. 33:4861.6

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 4861.6. Investigation of qualifications of applicant; issuance of license; limitation on license fee; duration of license; report to central registry

A. The division and the governing authority of the municipality or parish shall investigate the qualifications of each applicant and the merits of the application, with due expedition after the filing of the application, and shall make the following determinations:

(1) That the applicant is duly qualified to hold, operate, and conduct games of chance under the provisions of this Part and the rules and

regulations governing the holding, operation, and conduct thereof in the municipality or parish.

(2) That the member or members of the applicant designated in the application to hold, operate, or conduct or assist in holding, operating, or conducting the game or games of chance for which the license application is made are bona fide active members of the applicant and persons of good moral character who have never been convicted of certain related offenses as established by the division.

(3) That such game or games of chance are to be held, operated, and conducted in accordance with the provisions of this Part and in accordance with the rules and regulations governing the holding, operation, and conduct thereof and that the proceeds thereof are to be disposed of as provided by this Part.

B. If the municipal or parish governing authority is satisfied that, except as provided in R.S. 33:4861.12, no commission, salary, compensation, reward, or recompense whatever will be paid or given to any person holding, operating, or conducting any such game of chance, it shall issue a license to the applicant for the holding, operation, and conducting of the specific kind of games of chance applied accordingly.

C. No license for holding, operating, or conduct of any game or games of chance shall be issued under this Part to be effective for a period of more than one calendar year.

D. The name, address, and location of any such establishment licensed for operating, holding, or conducting any authorized game, gaming or wagering activity, or game of chance issued pursuant to this Part, including the names and addresses of every person who has or controls, directly or indirectly, more than five percent ownership, income, or profit interest, shall be submitted, and updated at least quarterly, to the Louisiana Gaming Control Board for inclusion in a central registry of licensed gaming operators pursuant to R.S. 27:15(B)(3)(c).

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1. Amended by Acts 1986, No. 752, § 1, eff. July 8, 1986.

1999 Electronic Pocket Part Update

Amended by Acts 1989, No. 820, § 1; Acts 1991, No. 151, § 1; Acts 1993, No. 515, § 1; Acts 1993, No. 822, § 1; Acts 1997, No. 1192, § 3.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

On authority of R.S. 24:253, "conducting of" was substituted for "conduct of" preceding "the specific kind of games" in subsec. B as amended in 1989.

Section 2 of Acts 1989, No. 820 (§ 1 of which, inter alia, amended subsec. B of this section) provided:

"This Act shall not be construed to amend or repeal the provisions of R.S. 33:4861.12 as amended by Act No. 1023 of the 1986 Regular Session of the Legislature."

In subsec. B of this section as amended in 1993, "or" preceding "any such game of chance" was deleted, pursuant to the statutory revision authority of the Louisiana State Law Institute.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended in 1997, parentheses were deleted before and after "D" and a period was inserted following.

1988 Main Volume

The 1986 amendment rewrote the section and the section heading which had provided:

"§ 4861.6. Investigation of qualifications of applicant; issuance of license

"The municipality or governing body of the parish shall make an investigation of the qualifications of each applicant and the permits of the application, with due expedition after the filing of the application, and it shall determine that the applicant is duly qualified to hold, operate and conduct games of chance under the provisions of this Part and the rules and regulations governing the holding, operation and conduct thereof in the municipality or parish; that the member or members of the application designated in the application to hold, operate or conduct or assist in holding, operating or conducting the game or games of chance, to hold, operate and conduct which the license is applied for, are bona fide active members of the applicant and persons of good moral character and have never been convicted of crime; that such game or games of chance are to be held, operated and conducted in accordance with the provisions of this Part and in accordance with the rules and regulations governing the holding, operation and conduct thereof and that the proceeds thereof are to be disposed of as provided by this act, and if the municipality or governing body is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation or conduct of any such game of chance, it shall issue a license to the applicant for the holding, operation and conduct of the specific kind, or one of the specific kinds, of games of chance applied for accordingly."

NOTES OF DECISIONS

Fees 1

1. Fees

License fees of municipalities and parishes for games of raffles, bingo, and keno pursuant to Charitable Raffles Bingo and Keno Licensing Law must be reasonably related to costs of regulation; excessive license fee may constitute illegal tax. Op.Atty.Gen., No. 90-677, Feb. 22, 1991.

LSA-R.S. 33:4861.6

LA R.S. 33:4861.6

END OF DOCUMENT

LA R.S. 27:15

LSA-R.S. 27:15

LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 2. LOUISIANA GAMING CONTROL BOARD

Current through all 1998 1st Ex.Sess. and Reg. Sess. Acts

§ 15. Board's authority, responsibilities

A. The board shall regulate all gaming activities and operations in the state as more specifically provided in this Title and other applicable laws.

B. The board shall:

(1) Have all regulatory authority, control, and jurisdiction, including investigation, licensing, and enforcement, and all power incidental or necessary to such regulatory authority, control, and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, the Louisiana Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law, except as otherwise specified in this Title. Further, the board shall have all regulatory, enforcement, and supervisory authority which exists in the state as to gaming on Indian lands as provided in the provisions of Act No. 888 of the 1990 Regular Session of the Legislature and Act No. 817 of the 1993 Regular Session of the Legislature. [FN1]

(2)(a) Exercise its authority sitting as a whole or in panels of three, as provided for by rules adopted by the board.

(b) Meet not less often than twelve times a year and, as nearly as practicable, on the same day of every month in accordance with the requirements of Subparagraph (a) of this Paragraph.

(c) The provisions of this Paragraph shall not prohibit hearing officers from rendering any decision provided for under R.S. 27:25.

(3)(a) Establish, and from time to time amend, a plan of organization to conduct the business of regulating and controlling the gaming

operations and activities under its jurisdiction efficiently, efficaciously, and thoroughly.

(b) The plan of organization shall provide for the capacity to:

(i) Administer the granting of contracts, licenses, and permits.

(ii) Analyze and review investigative and audit reports and findings.

(iii) Provide for enforcement of board regulations as is necessary to the efficient, efficacious, and thorough regulation and control of the gaming operations and activities under its jurisdiction.

(c)(i) Establish, and update at least quarterly, a central registry of all gaming operators licensed pursuant to the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, the Charitable Raffles, Bingo and Keno Licensing Law, the Louisiana Riverboat Economic Development and Gaming Control Act, the Louisiana Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law.

(ii) Such registry shall be composed of the name and address of each person who is licensed or who holds an operating contract pursuant to such laws, and the address of any location in which any authorized game, gaming or wagering activity, or game of chance is conducted pursuant to such laws. Included in such registry shall be the name and address of each person who owns or controls, directly or indirectly, more than five percent ownership interest, income interest, or profit interest in any such establishment.

(4) Incur such expenses and obligations, within the limits of the money available to the board, as are necessary to the efficient, efficacious, and thorough conduct of the business of regulating and controlling the gaming operations and activities under its jurisdiction and establish and maintain an accounting system which complies with law. Expenses attributable to individual members shall be incurred in compliance with R.S. 27:14 and rules adopted pursuant thereto.

(5) Organize and conduct hearings, as provided in R.S. 27:25.

(6) Approve, prior to encumbrance, all financial transactions that exceed twenty thousand dollars.

(7) Approve, prior to its presentation to the legislature and again after appropriation prior to allocation, the budget for the board.

(8) Adopt such policies and rules as are necessary to the efficient, efficacious, and thorough conduct of the business of regulating and controlling the gaming operations and activities under its jurisdiction and as are required by this Title. Rules shall be adopted pursuant to the Administrative Procedure Act [FN2] and, notwithstanding any other provision of law to the contrary, rules of the board shall be subject to legislative oversight and review. The legislative review of the rules shall be conducted by the legislative committees with jurisdiction over gaming and criminal matters as provided by legislative rule.

(9)(a) Respond to the governor and the legislature or any committee thereof.

(b) Make an annual report to the legislature regarding the state of the board's operations and of the gaming operations and activities it regulates. Such report shall include at a minimum:

(i) Recommendations for all needed changes in the law regarding the board or any regulated activity.

(ii) A complete report on the receipt and expenditure of all funds received by the board.

(iii) The financial and economic development impact of each regulated activity on the state and on local communities.

(iv) The competitive status of the state vis a vis other states in which gaming is conducted.

(10) Arrange for a location in the capitol complex for meetings which has adequate space to accommodate the public.

C. The board may:

(1) Establish advisory councils from among Louisiana residents to provide information and guidance regarding needs and concerns of particular localities. Such councils may be established at such times, for such duration, and under such circumstances, including compensation, as the board deems appropriate.

(2) Veto, by not less than five votes, any action taken by the chairman.

(3) Enter into contracts for professional services in accordance with Chapter 16, Professional, Personal, Consulting, and Social Services Procurement, and Chapter 17, the Louisiana Procurement Code, of Title 39 of the Louisiana Revised Statutes of 1950. [FN3]

(4) Require such assistance from, and pursuant to a negotiated interagency agreement with, the Department of Revenue, as the board determines is appropriate, necessary, and not prohibited by law.

(5) Authorize the chairman by rule to exercise such powers of the board as deemed appropriate and as provided in this Title subject to veto as provided in Paragraph (2) of this Subsection.

D. In addition to or in lieu of the revocation or suspension of a license issued pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, the board may impose upon any riverboat gaming licensee a civil penalty not to exceed one hundred thousand dollars for each violation of any provision of the Louisiana Riverboat Economic Development and Gaming Control Act, this Chapter, or any rule or regulation of the board. Payment of the civil penalty shall be a requirement for the retention of any permit, certificate, or license held by the entity which violated any such provisions. If the licensee contests the imposition of the civil penalty, the penalty shall be imposed only after an adjudicatory hearing is conducted

pursuant to R.S. 27:25 and a basis for imposition of the penalty is determined to exist.

E. The board by rule may adopt a schedule of penalties for violations of the Louisiana Riverboat Economic Development and Gaming Control Act, this Chapter, or any rule or regulation of the board. Any such rules shall be adopted pursuant to the Administrative Procedure Act and as otherwise provided in this Chapter.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1996, 1st Ex.Sess., No. 7, § 1, eff. May 1, 1996.  
Amended by Acts 1997, No. 1051, § 1; Acts 1997, No. 1076, § 1, eff. July 14, 1997; Acts 1997, No. 1192, § 2; Acts 1998, 1st Ex.Sess., No. 114, § 1.

[FN1] In par. B(1), see, generally, notes following R.S. 14:90, R.S. 46:2301 to 46:2303.

[FN2] In par. B(8), R.S. 49:950 et seq.

[FN3] In par. C(3), R.S. 39:1481 et seq. and 39:1551 et seq., respectively.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

In subsec. C(3) of this section as enacted in 1996, "Chapters 16 and 17, the Louisiana Procurement Code" was rewritten as "Chapter 16, Professional, Personal, Consulting, and Social Services Procurement, and Chapter 17, the Louisiana Procurement Code", pursuant to the statutory revision authority of the Louisiana State Law Institute.

Acts 1997, No. 1051, § 1 and Acts 1997, No. 1076, § 1 both amended par. B(2) of this section. Pursuant to the statutory revision authority of the Louisiana State Law Institute, the text of Act 1051 was set forth as it appears in the Act 1051 and par. B(2) as set forth in Act 1076 was redesignated as subpar. B(2)(c) and the first sentence of that subparagraph, which read, "Exercise its authority sitting as a whole or in panels of three, as provided for by rules adopted by the board" was deleted.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended in 1997, in item B(3)(c)(ii), "composed" was substituted for "comprised" following "shall be".

In 1997, pursuant to Acts 1997, No. 658, § 2 and the statutory revision authority of the Louisiana State Law Institute, "Department of Revenue and Taxation" was changed to "Department of Revenue" in par. C(4).

CROSS REFERENCES

Governor's Office on Indian Affairs, see R.S. 46:2301 et seq.

NOTES OF DECISIONS

Constitutionality of rules 2

Hearing officers 1

1. Hearing officers

Primary agency for gaming regulation in Louisiana, the Louisiana Gaming Control Board should have the authority to hire contract hearing officers as it seems fit for the strict regulation of gaming in Louisiana. Op.Atty.Gen. No. 96-375, Sept. 11, 1996.

2. Constitutionality of rules

Gaming Control Board could not decide constitutional challenges to validity of rule it had adopted; rather, trial court was proper forum for such issues. RCS Gaming, Inc. v. State Through Louisiana Gaming Control Bd., App. 1 Cir.1997, 97 2317 (La.App. 1 Cir. 11/19/97), 705 So.2d 1124.

LSA-R.S. 27:15

LA R.S. 27:15

END OF DOCUMENT

LA R.S. 33:4861.16

LSA-R.S. 33:4861.16

LOUISIANA REVISED STATUTES

TITLE 33. MUNICIPALITIES AND PARISHES

CHAPTER 14. EXERCISE OF POLICE POWER

PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess. Acts

§ 4861.16. Violations; penalties

A. Any person, association, or corporation which violates any provision of this Part including the specifically enumerated acts contained in Subsection B of this Section or any rule or regulation of the division shall be subject to a civil penalty imposed by the division as further provided in R.S. 40:1485.6 and to suspension or revocation of its license as further provided in R.S. 40:1485.4.

B. Any person, association, or corporation which commits any of the following acts shall, upon conviction, be subject to a criminal penalty, and be fined not more than five thousand dollars or imprisoned for one year, or both:

(1) Making any false statement in any application for a license under this Part or a license issued pursuant to R.S. 40:1485.5.

(2) Holding, operating, or conducting any game of chance either without a license issued by a parish or municipal governing authority or without a license issued by the division.

(3) Knowingly falsifying or making any false entry in any books or records with respect to any transaction connected with the holding, operating, and conducting of any game of chance.

(4) Refusing to allow the licensing parish or municipal governing authority or the division access to any premises where a game of chance is being conducted or to any record or book relative to gaming activity.

(5) Intentionally causing, aiding, abetting, or conspiring with another to cause any person to violate any provision of this Subsection. In addition to suffering any such penalty which may be imposed, a licensee shall forfeit any license issued to it under this Part.

(6) Offering for sale, lease, rental, or furnishing in any other manner whatsoever, any electronic video bingo machine, or part, component, or supply, intended for use therewith except an authorized manufacturer, supplier, or distributor pursuant to R.S. 33:4861.17(F).

(7) Possessing any electronic video machine or component, parts, or supplies intended for use therewith except manufacturers, distributors, or lessors and organizations licensed by a municipality or parish to conduct electronic video bingo who are in possession of such machines under the provisions of R.S. 33:4861.17 and the rules and regulations adopted pursuant to R.S. 33:4861.17(F).

(8) Possessing, displaying, selling, or otherwise furnishing to any person any deal pull tabs except as provided for in R.S. 33:4861.18.

(9) Using net gaming proceeds in whole or in part for any uses other than educational, charitable, patriotic, religious, or public spirited purposes.

C. Any person, association, or corporation which violates any other provision of this Part not listed in Subsection B may be imprisoned for not more than six months or fined not more than five hundred dollars, or both.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1. Amended by Acts 1986, No. 752, § 1, eff. July 8, 1986.

1999 Electronic Pocket Part Update

Amended by Acts 1988, No. 596, § 1; Acts 1991, No. 151, § 1; Acts 1991, No. 152, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1988 Main Volume

The 1986 amendment rewrote the section and section heading which had provided:

"§ 4861.16. Violations

"Any person, association or corporation who or which shall make any false statement in any application for a license under this Part, or shall fail to keep such books and records as shall fully and truly record all transactions connected with the holding, operating or conducting of games of chance under any such license or shall falsify or make any false entry in any books or records so far as they relate to any transaction connected with the holding, operating and conducting of any game of chance under any such license or shall violate any of the provisions of this Part or of any term of such license, shall be a disorderly person and if convicted as such shall, in addition to suffering any other penalties which may be imposed, forfeit any license issued to it under this Part and shall be ineligible to apply for a license under this Part for one year thereafter."

NOTES OF DECISIONS

Minors 2

Suspension or revocation 1

1. Suspension or revocation

An organization's filing for Chapter 11 bankruptcy [11 U.S.C.A. § 1101 et seq.] does not preclude the state from exercising its power to suspend or revoke the organization's license to gamble as a non-profit organization. Op.Atty.Gen., No. 87-663, Nov. 9, 1987.

2. Minors

Charitable bingo ordinance which limited payment of rent for use of premises leased for games of chance was authorized by state law. Op.Atty.Gen., No. 91- 103, April 18, 1991.

If an organization validly holds a license under Louisiana's Charitable Raffles, Bingo and Keno Licensing Law (R.S. 33:4861.1 through 33:4861.16), then those persons would not be in violation of R.S. 14:92(4) by allowing minors to be present on the premises where a bingo game is conducted or by allowing minors to participate in such a bingo game. Op.Atty.Gen., No. 77-1657, Dec. 21, 1977.

LSA-R.S. 33:4861.16

LA R.S. 33:4861.16

END OF DOCUMENT

LA R.S. 14:90.2

LSA-R.S. 14:90.2

LOUISIANA REVISED STATUTES  
TITLE 14. CRIMINAL LAW  
CHAPTER 1. CRIMINAL CODE  
PART V. OFFENSES AFFECTING THE PUBLIC MORALS  
SUBPART B. OFFENSES AFFECTING GENERAL MORALITY  
1. GAMBLING

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 90.2. Gambling in public

A. Gambling in public is the aiding or abetting or participation in any game, contest, lottery, or contrivance, in any location or place open to the view of the public or the people at large, such as streets, highways, vacant lots, neutral grounds, alleyway, sidewalk, park, beach, parking lot, or condemned structures whereby a person risks the loss of anything of value in order to realize a profit.

B. This Section shall not prohibit activities authorized under the Charitable Raffles, Bingo and Keno Licensing Law, [FN1] nor shall it apply to bona fide fairs and festivals conducted for charitable purposes.

C. Whoever commits the crime of gambling in public shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

CREDIT(S)

1986 Main Volume

Added by Acts 1979, No. 754, § 1, eff. July 20, 1979.

[FN1] R.S. 33:4861.1 et seq.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1986 Main Volume

Acts 1968, No. 609, § 1 enacted the Charitable Raffles, Bingo and Keno Licensing Law as Subdivision 1-A of Subpart B of Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, containing R.S. 14:90.1 to 14:90.16. On authority of R.S. 24:253, those provisions were redesignated as Part V-A of Chapter 14 of Title 33 of the Louisiana Revised Statutes of 1950, containing R.S. 33:4861.1 to 33:4861.16.

Acts 1979, Nos. 317, § 1 and 754, § 1, add provisions designated as R.S. 14:90.1. Pursuant to authority of R.S. 24:253, R.S. 14:90.1 has

been printed as provided by Act 317 and the provision of Act 754 has been redesignated as R.S. 14:90.2.

#### LIBRARY REFERENCES

1986 Main Volume

Gaming k72(1).  
C.J.S. Gaming §§ 1, 89.

#### NOTES OF DECISIONS

Charitable Raffles, Bingo and Keno Licensing Law 3  
Construction and application 1.5  
Legislative powers 1  
Particular locations or places 2  
Risks loss of anything of value 4  
Validity 1/2

##### 1/2. Validity

Statute proscribing public gambling is sufficiently clear and would provide person of ordinary intelligence notice of whether or not his contemplated conduct is prohibited, and would provide meaningful standard for fact-finder to apply in determining guilt or innocence of accused, and is thus not unconstitutionally vague. *State v. Griffin*, Sup.1986, 495 So.2d 1306.

##### 1. Legislative powers

Suppression or regulation of gambling is a legitimate state interest; legislative determination in defining and prescribing means of suppression constitutes appropriate exercise of police power for protection of the public. *Theriot v. Terrebonne Parish Police Jury*, Sup.1983, 436 So.2d 515.

##### 1.5. Construction and application

Violations of La. R.S. 14:90 which prohibits gambling as a business and 14:90.2 which prohibits gambling in public must be determined on a case by case basis on its own facts. *Op.Atty.Gen. No. 94-178*, June 29, 1994.

##### 2. Particular locations or places

Defendants who were "shooting dice" in a laundromat were not "gambling in public" as defined by this section, although they were viewable from the street. *State v. Young*, App. 2 Cir.1984, 457 So.2d 205.

##### 3. Charitable Raffles, Bingo and Keno Licensing Law

Purportedly nonprofit corporation which conducted bingo games and games of chance resulting in approximately 1.3 million dollars gross receipts and single \$500 donation to needy organization during two and one-half month period was not within purview of exemption of R.S. 33:4861.4 to prohibition of Const. Art. 12, § 6 and R.S. 14:90.2 against gambling provided by Charitable Raffles, Bingo and Keno

Licensing Law (R.S. 33:4861 et seq.), and such games could be permanently enjoined as public nuisance. State v. Opelousas Charity Bingo, Inc., App. 3 Cir.1985, 462 So.2d 1380.

4. Risks loss of anything of value

Words "anything of value" in statute proscribing public gambling are used to include every possibility of loss. State v. Griffin, Sup.1986, 495 So.2d 1306.

LSA-R.S. 14:90.2

LA R.S. 14:90.2

END OF DOCUMENT

LA R.S. 40:1485.6

LSA-R.S. 40:1485.6

LOUISIANA REVISED STATUTES  
TITLE 40. PUBLIC HEALTH AND SAFETY  
CHAPTER 6. DEPARTMENT OF PUBLIC SAFETY  
PART VIII. REGULATION OF CHARITABLE GAMING

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 1485.6. Enforcement responsibilities

A. The division shall monitor the conduct or business of licensees, both on a routine scheduled and an unscheduled basis, to the extent necessary to ensure compliance with the provisions of charitable gaming laws and regulations of the state, particularly the Charitable Raffles, Bingo, and Keno Licensing Law. [FN1]

B. In carrying out its enforcement responsibilities, the division may:

(1) Inspect and examine all premises in which charitable games of chance are conducted or supplies or equipment for such games are manufactured or distributed.

(2) Inspect all such supplies and equipment in, upon, or about such premises.

(3) Seize and remove from such premises and impound such supplies and equipment for the purpose of examination and inspection pursuant to an appropriate court order.

(4) Demand access to and audit and inspect books and records of licensees for the purpose of determining compliance with laws and regulations relative to charitable gaming.

(5) Conduct in-depth audits and investigations when warranted.

C. The division may require licensees to maintain records and submit reports as further provided in R.S. 33:4861.13(C) and 4861.19(D).

D. In addition to license revocation or suspension or any criminal penalty imposed pursuant to R.S. 33:4861.16(B), the division may assess a fine against any person who violates any law or regulation relative to gambling or charitable gaming. Such a fine shall only be assessed after notice and opportunity for a hearing held in accordance with the Administrative Procedure Act [FN2].

E. All departments, commissions, boards, agencies, officers, and institutions of the state and all subdivisions thereof, in particular local law enforcement entities, shall cooperate with the division in carrying out its enforcement responsibilities.

CREDIT(S)

1992 Main Volume

Added by Acts 1986, No. 752, § 3, eff. July 8, 1986. Amended by Acts 1991, No. 160, § 1.

[FN1] R.S. 33:4861.1 et seq.

[FN2] R.S. 49:950 et seq.

HISTORICAL AND STATUTORY NOTES

1992 Main Volume

The 1991 amendment in subsec. D, first sentence, substituted "gambling or charitable gaming" for "charitable gaming".

CROSS REFERENCES

Charitable raffles, bingo and keno licensing law, violations and penalties, see R.S. 33:4861.16.

LSA-R.S. 40:1485.6

LA R.S. 40:1485.6

END OF DOCUMENT

LA R.S. 33:4861.10  
LSA-R.S. 33:4861.10

LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess. Acts

§ 4861.10. Control and supervision over games

A. The division and the governing authority of any municipality or parish issuing any license under this Part shall control all games of chance held, operated, or conducted under such license, to assure that they are fairly held, operated, and conducted in accordance with the provisions of the license, its own rules and regulations, and the provisions of this Part. The governing authority may suspend or revoke any license for violation of any such provision, and its officers and agents may enter and inspect any premises where any such game of chance is being held, operated, and conducted or is intended to be held, operated, and conducted, or where any equipment is being used or intended to be used in the conduct thereof.

B. In addition to any ordinance, rule, or regulation of the governing authority of a municipality or parish issuing a charitable gaming license, each licensee shall be subject to the provisions of this Part, particularly R.S. 33:4861.11 and 4861.12, Part VIII of Chapter 6 of Title 40 of the Louisiana Revised Statutes of 1950, and all rules and regulations adopted by the division.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1. Amended by Acts 1986, No. 752, § 1, eff. July 8, 1986.

1999 Electronic Pocket Part Update

Amended by Acts 1993, No. 515, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1988 Main Volume

The 1986 amendment rewrote the section which had provided:

"The municipality or governing body of any parish issuing any license under this Part shall have and exercise control and supervision over all games of chance held, operated or conducted under such license, to the end that the same are fairly held, operated and conducted in accordance with the provisions of such license, the rules and regulations promulgated by the municipality or governing body of any parish and the provisions of this Part governing the holding, operating and conduct of the same, and such municipality or governing body of the parish shall have power and authority to suspend any license issued by such governing body and to revoke the same, after hearing, for any violation of any such provision, and shall by its officers and agents have the right of entry at all times into any premises where any such game of chance is being held, operated and conducted or where it is intended that any such game of chance shall be held, operated and conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same."

NOTES OF DECISIONS

Restrictions 1

1. Restrictions

Parish governing authority has right under its legislative grant of authority to prohibit holding of charitable games of chance, or to prescribe such restrictions or limitations in this regard as they see fit. Theriot v. Terrebonne Parish Police Jury, Sup.1983, 436 So.2d 515.

Parish police jury ordinance restricting use of facilities for raffles, bingo or keno games to two days during any calendar week is more restrictive than legislative authorization which does not itself limit number of times charitable bingo may be held in a given week in a given facility, but is nonetheless in keeping with, rather than contrary to, legislative authorization under R.S. 33:4861.10 and 33:4861.3. Theriot v. Terrebonne Parish Police Jury, Sup.1983, 436 So.2d 515.

Under its legislative grant of authority to permit gaming activities, parish governing authorities have the right to prescribe restrictions or limitations on the operation of games of chance. Op.Atty.Gen., No. 88-617, Dec. 27, 1988.

LSA-R.S. 33:4861.10

LA R.S. 33:4861.10

END OF DOCUMENT

LA R.S. 4:149

LSA-R.S. 4:149

LOUISIANA REVISED STATUTES  
TITLE 4. AMUSEMENTS AND SPORTS  
CHAPTER 4. RACING  
PART I. HORSE RACING

Current through all 1998 1st Ex.Sess. and Reg. Sess. Acts

§ 149. Wagering; rules and regulations

The commission may prescribe rules and regulations under which shall be conducted all horse races upon the results of which there is wagering. The commission shall, as may be necessary, prescribe additional special rules and regulations applicable separately to thoroughbreds and quarter horses. The commission shall make rules governing, permitting, and regulating the wagering on horse races under the form of mutuel wagering by patrons, known as pari-mutuel wagering. Only those persons receiving a license from the commission may conduct this type of wagering, and shall restrict this form of wagering to a space within the race meeting grounds. All other forms of wagering on the result of horse races are illegal, and all wagering on horse races outside the enclosure where horse races have been licensed by the commission is illegal.

CREDIT(S)

1987 Main Volume

Acts 1968, No. 554, § 1. Amended by Acts 1974, No. 626, § 1.

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL AND STATUTORY NOTES

1987 Main Volume

Source:

R.S. 4:148.

This section is a part of the amendment and reenactment of Part I by Acts 1968, No. 554, § 1. For disposition of former section of the same number, see italicized note and Table preceding R.S. 4:141.

The 1974 amendment inserted the sentence relating to additional special rules and regulations for thoroughbred and quarter horses; and made grammatical changes.

Prior Laws:

Acts 1940, No. 276, § 7.

#### CONSTITUTIONAL PROVISIONS

1987 Main Volume

Article 12, § 6, provides that "gambling shall be defined by and suppressed by the legislature."

#### CROSS REFERENCES

Gaming Control Law, see R.S. 27:1 et seq.

Aleatory contracts, see C.C. art. 2982 et seq.

Gambling, defined as an offense, see R.S. 14:90.

#### LAW REVIEW AND JOURNAL COMMENTARIES

Gaming and betting, wagers on horse races. 22 Tul.L.Rev. 311, 318 (1947).

Legalized gambling, the Louisiana State Racing Commission. 16 La.L.Rev. 437 (1956).

#### LIBRARY REFERENCES

1987 Main Volume

Gaming k4.

C.J.S. Gaming § 50 et seq.

#### NOTES OF DECISIONS

Off track betting 2

Validity 1

1. Validity

R.S.1950, 4:142, 4:148, (see, now, R.S. 4:144 and this section) creating the Louisiana State Racing Commission and authorizing pari-mutuel wagering, were not unconstitutional on ground that they authorized operation of a "lottery" in violation of Const. 1921, Art. 19, § 8 (see, now, Const. Art. 12, § 6), providing that "lotteries" and sale of lottery tickets are prohibited in the state. *Gandolfo v. Louisiana State Racing Com'n*, Sup.1954, 227 La. 45, 78 So.2d 504.

Under the constitutional declaration that gambling is a vice and that Legislature shall pass laws to suppress it, Legislature, in the exercise of its police power, has power to entirely prohibit pari-mutuel wagering or the bookmaking form of gambling on horse races or may provide for the limited licensing thereof without such act being invalid as discriminatory, since the business of gambling is not one that demands the consideration accorded to vocations which are necessary or useful to community or harmless in themselves and such business may be lawfully discriminated against. *State v. Saia*, Sup.1947, 212 La. 868, 33 So.2d 665.

R.S. 4:148 (see, now, this section) restricting bookmaking to inclosure of a licensed race track was not an unreasonable exercise of police power. *State v. Saia*, Sup.1947, 212 La. 868, 33 So.2d 665.

2. Off track betting

Corporation which for a fee accepted money to be legally bet as directed by its customers was not engaged in de facto off track betting in violation of this section, since corporation accepted no wagers on any horse race but merely accepted money to be bet and was a disinterested intermediary which assumed no monetary risk. *State v. Countdown, Inc.*, App. 4 Cir.1974, 305 So.2d 634, writ issued 309 So.2d 675, affirmed 319 So.2d 924.

Acceptance of money by disinterested party to be transported and legally bet at lawful race meeting does not violate statutes restricting wagering on horse races to a pari-mutuel pool at licensed tracks. *State v. Countdown, Inc.*, App. 4 Cir.1974, 305 So.2d 634, writ issued 309 So.2d 675, affirmed 319 So.2d 924.

LSA-R.S. 4:149

LA R.S. 4:149

END OF DOCUMENT

LA R.S. 33:4861.17

LSA-R.S. 33:4861.17

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 4861.17. Use of electronic or video bingo games

A. Electronic or video machines, hereafter termed "electronic bingo machines", for public playing of bingo may be made available at any location licensed under this Part for charitable bingo, provided that all requirements of this Part not in conflict with the provisions of this Section are met.

B. Any such electronic bingo machine shall be subject to the following requirements and restrictions concerning its operation and use:

(1) The cost of each game play shall be not less than one quarter nor more than four quarters.

(2) Payout shall be not less than eighty percent and not more than ninety percent of the total amount wagered.

(3) The maximum prize awarded shall be not more than one thousand dollars.

(4) A machine shall dispense no cash, only tickets verifiable as valid indicating the prize amount.

(5) A machine shall play the game of bingo as described in R.S. 33:4861.4, except that a random number generator in the machine shall replace the drawing of numbered objects from a receptacle, and may play "cover-all bingo" in which all numbers of the card must be covered.

(6) A machine shall allow the player a choice of cards on which to play and must show a "BINGO" at the end of play.

(7) A machine shall allow only a linear based payout in which the amount of the payout follows a straight line progression in direct proportion to the amount wagered.

(8) A machine shall provide for an electronic readout giving, at a minimum, a summary of total wagers, total plays, total payout, and current prize allotment since the last date of summary or the last date of reset of the machine.

C. An electronic bingo machine may be leased by any holder of a bingo license issued pursuant to this Part. However, in no case shall any lease agreement entered into authorize the lessor to receive a percentage of the receipts from the machine.

D. Only cash prizes may be awarded winners of games on an electronic bingo machine.

E. At least forty-five percent of the net win from the machine must be paid to the licensee owning or leasing it.

F. The division may adopt, pursuant to the Administrative Procedure Act, [FN1] additional rules and regulations governing the use of electronic bingo machines and may establish a list of manufacturers, distributors, suppliers, and lessors authorized to provide electronic bingo machines or a list of acceptable models of the machines, or acceptable serial numbers on such models or manufacturers, distributors, suppliers, or lessors.

G. The division may assess whatever fees may be necessary to carry out the purposes of this Section and the rules and regulations adopted pursuant to R.S. 33:4861.17(F).

CREDIT(S)

1988 Main Volume

Added by Acts 1985, No. 671, § 1. Amended by Acts 1986, No. 752, § 1, eff. July 8, 1986.

1999 Electronic Pocket Part Update

Amended by Acts 1990, No. 767, § 1.

[FN1] In subsec. F, R.S. 49:950 et seq.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1988 Main Volume

Another R.S. 33:4861.17, enacted by Acts 1985, No. 823, § 1 and relating to pull-tabs, was redesignated as R.S. 33:4861.18 on authority of R.S. 24:253.

The 1986 amendment added subsec. G relating to assessment of fees by the attorney general.

The 1986 amendment also deleted "or" following "electronic" in the section heading. On authority of R.S. 24:253, "or" was reinserted.

LIBRARY REFERENCES

1988 Main Volume

Gaming k68(3).  
C.J.S. Gaming § 1 et seq.

NOTES OF DECISIONS

Authorized methods of play 3  
Minors 1  
Private contracts 2

1. Minors

This section of Electronic Video Bingo Machine Law requires each machine to be labeled, informing the public that no one under 18 years

is allowed to play, thereby excluding any minor from playing an electronic video bingo machine. Op.Atty.Gen., No. 90-98, July 24, 1990.

## 2. Private contracts

Charitable raffles, bingo and keno licensing law provisions regulating charitable gaming by nonprofit organizations and the relationships between charitable organizations and providers, did not regulate the relationship between two private, noncharitable organizations and thus did not apply to nonlicensed commercial hall owners or electronic video bingo distributors except insofar as their dealings were with charitable organizations. American Coin Machines, Inc. v. Atiyeh, App. 1 Cir.1991, 577 So.2d 234.

Although charitable gambling licensing provision gave Attorney General authority to make rules and regulations to establish list of the manufacturers authorized to provide electronic video bingo equipment and other related functions, it did not permit the Attorney General to regulate relationships among various providers, and thus Attorney General lacked authority to regulate private contractual relationship regarding payment or rental rate charge by commercial lessor of bingo hall to distributor of electronic video bingo machines. American Coin Machines, Inc. v. Atiyeh, App. 1 Cir.1991, 577 So.2d 234.

## 3. Authorized methods of play

Other than electronic video bingo and keno, authorized for play under the authority of La. R.S. 33:4861.4A(2), read in conjunction with La. R.S. 33:4861.17, other electronic video games including pull tabs are not authorized under provisions of La. R.S. 33:4861.1, et seq. Op.Atty.Gen., No. 94-430, Nov. 4, 1994.

Unless specifically authorized by statute, notwithstanding the provisions of LSA-R.S. 33:4861.17, method of playing bingo utilizing electronic video images of cards is not permitted. Op.Atty.Gen., No. 92-576, March 10, 1993.

LSA-R.S. 33:4861.17

LA R.S. 33:4861.17

END OF DOCUMENT

LA R.S. 33:4861.1

LSA-R.S. 33:4861.1

LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 4861.1. Citation

This Part shall be known and may be cited as the "Charitable Raffles, Bingo and Keno Licensing Law."

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1988 Main Volume

Title of Act:

An Act to amend Sub-Part B of Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, relative to general morality, by adding thereto a new subdivision to be designated as "1-A. Charitable Raffles, Bingo and Keno Licensing Law." to comprise Sections 90.1 through 90.16 thereof, authorizing the licensing by incorporated municipalities or in the absence of the incorporated municipality, then the governing body of the parishes at their option, of bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs to hold, operate and conduct charitable games of chance, for prizes, of, and restricted to, the selling of shares or tickets or rights to participate in, and the awarding, drawing or allotment of prizes in the specific kinds of games of, chance commonly known as raffles, bingo and keno for charitable purposes, conducted by the drawing for prizes or the allotment of prizes by chance, or any one or more of such games of chance; and making lawful the holding, operating and conducting of such games of chance under such licenses when the net proceeds thereof are devoted entirely to educational, charitable, patriotic, religious or public spirited uses; defining such games of chance; providing for the issuance and amendment of such licenses by any incorporated municipality or parish governing body and the suspension or revocation thereof and for the regulation, control and supervision of the conduct of such games of chance and for the administration of this Act. Acts 1968, No. 609.

CROSS REFERENCES

Gambling,

Generally, see R.S. 14:90 et seq.

Legislative power to define and suppress, see Const. Art. 12, § 6.

LAW REVIEW AND JOURNAL COMMENTARIES

Aleatory contract in the Louisiana Civil Code: A distinction without a difference. Clinton W. Shinn, 33 Loy.L.Rev. 295 (1987).

LIBRARY REFERENCES

1988 Main Volume

Gaming k4.  
C.J.S. Gaming § 50 et seq.

#### NOTES OF DECISIONS

Injunction 3  
Strict construction 2  
Validity 1

##### 1. Validity

The statutory exemptions for charitable gambling and bona fide fairs and festivals did not render unconstitutional the entire legislative scheme regulating gambling by creating a question as to whether they created a blanket exception to all gambling statutes, where the exceptions were limited to "this section" and "the provisions of" the game regulations for noncharitable carnivals. *Knights of Columbus, Chapter No. 2409 v. Louisiana Dept. of Public Safety & Corrections, Div. of State Police*, Sup.1989, 548 So.2d 936.

Scheme set out by legislature (R.S. 33:4861.1 et seq.) by which local governing authorities are to determine whether and how restrictively to authorize charitable bingo is in keeping with legislature's constitutional mandate under LSA-Const. Art. 12, § 6 to define and to suppress gambling. *Theriot v. Terrebonne Parish Police Jury*, Sup.1983, 436 So.2d 515.

Mandate of LSA-Const.1974, Art. 12, § 6 to suppress gambling is not self-executing and allows closely regulated legalization of gambling. *Op. Atty. Gen., No. 75-715*, May 30, 1975.

##### 2. Strict construction

Charitable Raffles, Bingo and Keno Licensing Law (R.S. 33:4861.1 et seq.) shall be strictly construed, since it was enacted as exception to Const. Art. 12, § 6 demanding suppression of gambling. *State v. Opelousas Charity Bingo, Inc.*, App. 3 Cir.1985, 462 So.2d 1380.

##### 3. Injunction

Claims that antigambling statutes were being enforced against charitable organization arbitrarily and capriciously was frivolous, and would not support injunction, where there was absolutely no evidence or even a particularized factual allegation in the record to support them. *Knights of Columbus, Chapter No. 2409 v. Louisiana Dept. of Public Safety & Corrections, Div. of State Police*, Sup.1989, 548 So.2d 936.

LSA-R.S. 33:4861.1

LA R.S. 33:4861.1

END OF DOCUMENT

LA R.S. 33:4861.20

LSA-R.S. 33:4861.20

LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 4861.20. Combination of interest prohibited

A. No organization which conducts charitable games of chance shall be a manufacturer or distributor of supplies or equipment for such games. This prohibition shall not apply to a charitable organization which distributes electronic video bingo machines in a building used, leased, or owned by the licensed charitable organization in which it conducts games authorized in this Chapter in a parish or incorporated municipality where an ordinance has been adopted allowing gaming by means of electronic video bingo.

B. No officer, director, or manager of an organization which conducts charitable games of chance shall:

(1) Have a direct or indirect financial interest in any entity which manufactures or distributes supplies or equipment for charitable games of chance or which leases space for charitable games of chance; or

(2) Serve as an officer, director, shareholder of more than two percent of the shares, proprietor, or employee of an entity which manufactures or distributes supplies or equipment for charitable games of chance.

C. No entity which manufactures or distributes supplies or equipment for charitable games of chance; any officer, director, owner of more than two percent of the business, proprietor, or employee of such an entity; or any person having a direct or indirect financial interest in such an entity shall lease premises, directly or indirectly, to an organization for purposes of conducting charitable games of chance.

D. No entity or person described in R.S. 33:4861.20(A), (B), or (C) shall serve as a commercial lessor.

CREDIT(S)

1988 Main Volume

Added by Acts 1986, No. 752, § 1, eff. July 8, 1986.

1999 Electronic Pocket Part Update

Amended by Acts 1991, No. 151, § 1; Acts 1993, No. 512, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended in 1991, commas were deleted following "entity which" and "chance or" in par. B(1).

LSA-R.S. 33:4861.20

LA R.S. 33:4861.20

END OF DOCUMENT

LA R.S. 33:4861.24

LSA-R.S. 33:4861.24

LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 4861.24. Fund-raising events

A. Notwithstanding any provisions of this Part to the contrary, a charitable organization licensed to operate, hold, or conduct any game or games of chance may enter into a contract with a private contractor who meets the qualifications prescribed by the division to conduct the operation and management of fund-raising events generally known as "casino night" or "Las Vegas night".

B. Each private contractor shall possess the skills and have the personnel and equipment available to conduct such games.

C. The contract shall stipulate that the contract price is a professional service fee based upon the equipment and personnel to be used as well as the types of games to be played. The division shall promulgate rules and regulations providing for the reasonable compensation of the contractor. The private contractor may use his own personnel only for the actual operation of the leased equipment.

D. For the purpose of this Section, "casino night" and "Las Vegas night" shall mean a charitable fund-raising event sponsored by a licensed charitable organization as defined pursuant to the provisions of R.S. 33:4861.2. The division shall promulgate rules which specify the kinds of casino games that may be conducted and the manner in which such games shall be operated.

E. The sponsors shall sell tickets to the charitable event and each individual shall receive for each ticket purchased, in connection with the event, an equal number of chips to be used in playing the various authorized games. The sponsor may award prizes at such events.

F. The division of charitable gaming control of the office of state police within the Department of Public Safety and Corrections may adopt

additional rules and regulations governing such events pursuant to the Administrative Procedure Act. [FN1]

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1991, No. 711, § 1.

[FN1] R.S. 49:950 et seq.

<General Materials (GM) - References, Annotations, or Tables>

CROSS REFERENCES

Charitable gaming regulation, license and renewal fee for private contractors conducting games of chance at fund-raising events under this section, see R.S. 40:1485.4.

LSA-R.S. 33:4861.24

LA R.S. 33:4861.24

END OF DOCUMENT

LA R.S. 27:352

LSA-R.S. 27:352

WEST'S LOUISIANA STATUTES ANNOTATED

LOUISIANA REVISED STATUTES

TITLE 27. LOUISIANA GAMING CONTROL LAW

CHAPTER 7. PARI-MUTUEL LIVE RACING FACILITY ECONOMIC REDEVELOPMENT AND GAMING CONTROL ACT

PART I. GENERAL PROVISIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 352. Policy

The legislature hereby finds and declares it to be the public policy of this state that:

(1) Pari-mutuel wagering facilities which offer live horse racing have historically made great contributions to the economic development of the state at large and particularly the agricultural and horse breeding industries.

(2) Recent legalization of additional forms of wagering other than pari-mutuel wagering on horse races such as lottery, riverboat gaming, and land-based casino gaming have, and will continue to have, a substantial negative and detrimental effect upon live horse racing as well as the thoroughbred and quarterhorse industries in general.

(3) Authorization of certain specified gaming activities, such as the competitive offering of slot machine gaming at specifically defined

eligible live racing facilities, will revitalize and rehabilitate those facilities within strategically located geographic areas of the state, and will further result in overall economic development and additional revenues to the state and parishes where those facilities are located.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1997, No. 721, § 1, eff. July 9, 1997.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

For date effective information, see italic note preceding R.S. 27:351.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as enacted in 1997, a hyphen was inserted in "land based" and "effect" was substituted for "affect" in par. 2.

LSA-R.S. 27:352

LA R.S. 27:352

END OF DOCUMENT

LA R.S. 33:4861.11

LSA-R.S. 33:4861.11

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 4861.11. Restrictions; requirements; transfers; prohibitions

A. No licensee shall hold, operate, or conduct any game of chance under this Part more often than on fifteen days in any one calendar month.

B. The total amount of prizes which may be awarded in any one session by a licensee shall not exceed four thousand five hundred dollars in cash or other thing or things of value, except as specifically provided in R.S. 33:4861.7, R.S. 33:4861.17, R.S. 33:4861.18, and R.S. 33:4861.26. The division shall establish by rule the method of calculating the value of any thing offered as a prize.

C. In addition to the requirement of R.S. 33:4861.9 to display its local license, each licensee shall conspicuously display its charitable gaming license issued by the division at the premises where any game is conducted at all times during such conduct.

D. Each licensee shall designate an active member and a sufficient number of alternate members of the organization to be in charge of and primarily responsible for each session of a game of chance. Such individual, or alternates, who shall be designated as the member-in-charge, shall supervise all activities of such session and be responsible for the conduct of all games of such session. The member-in-charge or alternate shall be present at all times on the premises during the session. In addition, each licensee shall designate an active member of the organization to be responsible for the documentation of receipts and disbursements as well as the maintenance of all financial records. Such individual designated shall have been a member in good standing of the organization and shall be familiar with the provisions of this Part, Part VIII of Chapter 6 of Title 40 of the Louisiana Revised Statutes of 1950, applicable local ordinances and regulations, and the rules and regulations of the division.

E. No licensee shall purchase or otherwise obtain any gaming supplies or equipment from any distributor or manufacturer until it has first determined that the individual selling or otherwise offering such supplies or equipment has a valid license issued by the division.

F. No licensee shall allow any person under eighteen years of age to assist in the holding, operation, or conduct of any game of chance. Charitable raffles as provided for in R.S. 33:4861.4(D)(2) shall be exempted from requirements of this Subsection.

G. (1) All proceeds from each gaming session, other than that amount paid out as cash prizes and that amount retained as a cash bank shall be deposited into a bank account, known as a charitable gaming account, maintained by the charitable organization solely for such deposits. Such deposits shall occur no later than the second banking day following the date the gaming session begins, but in no case more than five calendar days later.

(2) Any charitable organization may transfer gaming proceeds from its charitable gaming account to any other bank account controlled by the organization, as provided by administrative rules promulgated by the division.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1. Amended by Acts 1986, No. 752, § 1, eff. July 8, 1986; Acts 1987, No. 85, § 1, eff. Aug. 1, 1987; Acts 1987, No. 526, § 1, eff. July 9, 1987.

1999 Electronic Pocket Part Update

Amended by Acts 1991, No. 148, § 1; Acts 1993, No. 824, § 1; Acts 1995, No. 968, § 1; Acts 1995, No. 1154, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Acts 1995, No. 968, § 1, amending subsec. F, contained the section heading "Restrictions; requirements; prohibitions", while Acts 1995, No. 1154, § 1, amending subsec. B, reprinted the existing section heading "Restrictions; requirements; transfers". Pursuant to the statutory revision authority of the Louisiana State Law Institute, "Restrictions; requirements; transfers; prohibitions" was printed as the section heading.

House Concurrent Resolution No. 94 of the 1997 Regular Session provides in part:

"THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC 42:I.1703(A)(21) is hereby amended to read as follows:

"§ I.1703. Definitions

"A. As used throughout this Chapter, the following definitions apply:

"\* \* \* \* \*

"21. Session--represents authorized games of chance played within a time limit of two consecutive hours or four consecutive hours, within the same calendar day, with a minimum of 12 hours between sessions. The four-hour session limit shall not apply to sessions held in conjunction with a bona fide fair or festival on property where no rent is paid for the session and payout of prizes is determined by the number of persons playing. Sessions are limited to not more than one session per day per licensee. In no instance shall the total prize amounts exceed \$4,500 per session without a special license. A session of keno or bingo, when the licensee possesses a special license, is limited to six consecutive hours.

"\* \* \* \* \*"

1988 Main Volume

The 1986 amendment rewrote the section and the section heading which had provided:

"§ 4861.11. Number of games per month

"No games or games of chance shall be held, operated or conducted under any license issued under this Part oftener than on six days in any one calendar month."

Acts 1987, No. 85, § 1, effective Aug. 1, 1987, in subsec. A, prohibited licensees from conducting any game of chance more often than 15 days, instead of 12 days, in any month.

Section 2 of Acts 1987, No. 85 (§ 1 of which amended subsec. A of this section) provides:

"This Act shall become effective on August 1, 1987."

Acts 1987, No. 526, § 1 added subsec. F prohibiting licensees from allowing persons under 18 years of age to assist in games of chance.

LSA-R.S. 33:4861.11

LA R.S. 33:4861.11

END OF DOCUMENT

LA R.S. 33:4861.9

LSA-R.S. 33:4861.9

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 4861.9. Form of license

Each license shall be in such form as shall be prescribed in the rules and regulations promulgated by the municipality or governing body of the parish and shall contain a description of the kind or kinds of game or games of chance authorized to be held, operated and conducted thereunder, a statement of the name and address of the licensee, of the names and addresses of the member or members of the applicant under whom such game or games of chance will be held, operated and conducted, of the number of times, or the hours during which, such game or games of chance are authorized to be conducted and the place or places where and the date or dates and time or times when, such game or games of chance are to be conducted and of the specific purposes to which the entire net proceeds of such game or games of chance are to be devoted; and any other information which may be required by said rules and regulations to be contained therein, and each license issued for the conduct of any game of chance shall be conspicuously displayed at the place where any game is to be conducted thereunder at all times during the conduct thereof.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1.

<General Materials (GM) - References, Annotations, or Tables>

LSA-R.S. 33:4861.9

LA R.S. 33:4861.9

END OF DOCUMENT

LA R.S. 33:4861.19

LSA-R.S. 33:4861.19

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 4861.19. License for manufacturers or distributors of gaming supplies or equipment; prohibitions; requirement

A. (1) No person or other entity shall fabricate, concoct, or manufacture any supplies or equipment for use in the conduct of any game of chance authorized under this Part, including but not limited to bingo equipment and pull tabs, within this state or for use within this state without having obtained a manufacturer's license from the division, as further provided in R.S. 40:1485.5.

(2) No person or other entity shall sell, offer for sale, or otherwise furnish any other person any supplies or equipment for use in the conduct of any game of chance authorized under this Part, including but not limited to bingo equipment and pull tabs without having obtained a distributor's license from the division, as further provided in R.S. 40:1485.5.

B. No person licensed as a manufacturer or distributor shall sell or otherwise make available any such gaming supplies or equipment to any individual unless he has first determined that the individual is a licensed distributor or is acting as an agent of an organization which has a valid license issued by the division.

C. No manufacturer or distributor of gaming supplies or equipment shall directly or indirectly give gifts, trips, prizes, premiums, or other such gratuities to any charitable gaming organization, its employees, or commercial lessors other than nominal promotional items used in the conduct of charitable gaming as provided by law.

D. Each manufacturer or distributor of gaming supplies or equipment shall maintain records and submit reports as required by rules of the division. The rules may require maintenance of purchase and sale invoices of all gaming supplies and equipment manufactured or distributed, whether by sale, lease, rental, loan, or donation, to any charitable gaming organization.

E. Each distributor or manufacturer shall purchase state identification stamps from the division for supplies or equipment as required by rules of the division. Each distributor or manufacturer

shall be responsible for affixing such a stamp to each such item sold or otherwise disposed of at the point of such sale or disposal.

F. In addition to the provisions of this Part, each manufacturer or distributor of gaming supplies or equipment shall be subject to the provisions of Part VIII of Chapter 6 of Title 40 of the Louisiana Revised Statutes of 1950, particularly R.S. 40:1485.5 and 1485.6, and all rules and regulations adopted by the division.

CREDIT(S)

1988 Main Volume

Added by Acts 1986, No. 752, § 1, eff. July 8, 1986.

<General Materials (GM) - References, Annotations, or Tables>

NOTES OF DECISIONS

Licensing requirement 1

1. Licensing requirement

Charitable organizations, exempt under R.S. 33:4861.4 from prohibition in R.S. 14:90, in conducting a "Las Vegas Night" must be licensed by the Louisiana State Police Charitable Gaming Division, and persons furnishing supplies and equipment for the conduct of such activity must also be licensed by the Gaming Division under this section. Op.Atty.Gen., No. 87-169, March 2, 1987.

LSA-R.S. 33:4861.19

LA R.S. 33:4861.19

END OF DOCUMENT

LA R.S. 14:90.3

LSA-R.S. 14:90.3

WEST'S LOUISIANA STATUTES ANNOTATED

LOUISIANA REVISED STATUTES

TITLE 14. CRIMINAL LAW

CHAPTER 1. CRIMINAL CODE

PART V. OFFENSES AFFECTING THE PUBLIC MORALS

SUBPART B. OFFENSES AFFECTING GENERAL MORALITY

1. GAMBLING

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 90.3. Gambling by computer

A. The Legislature of Louisiana, desiring to protect individual rights, while at the same time affording opportunity for the fullest development of the individual and promoting the health, safety, education, and welfare of the people, including the children of this state who are our most precious and valuable resource, finds that the

state has a compelling interest in protecting its citizens and children from certain activities and influences which can result in irreparable harm. The legislature has expressed its intent to develop a controlled well-regulated gaming industry. The legislature is also charged with the responsibility of protecting and assisting its citizens who suffer from compulsive or problem gaming behavior which can result from the increased availability of legalized gaming activities. The legislature recognizes the development of the Internet and the information super highway allowing communication and exchange of information from all parts of the world and freely encourages this exchange of information and ideas. The legislature recognizes and encourages the beneficial effects computers, computer programming, and use of the Internet resources have had on the children of the state of Louisiana by expanding their educational horizons. The legislature further recognizes that it has an obligation and responsibility to protect its citizens, and in particular its youngest citizens, from the pervasive nature of gambling which can occur via the Internet and the use of computers connected to the Internet. Gambling has long been recognized as a crime in the state of Louisiana and despite the enactment of many legalized gaming activities remains a crime. Gambling which occurs via the Internet embodies the very activity that the legislature seeks to prevent. The legislature further recognizes that the state's constitution and that of the United States are declarations of rights which the drafters intended to withstand time and address the wrongs and injustices which arise in future years. The legislature hereby finds and declares that it has balanced its interest in protecting the citizens of this state with the protection afforded by the First Amendment, and the mandates of Article XII, Section 6 of the Constitution of Louisiana and that this Section is a product thereof.

B. Gambling by computer is the intentional conducting, or directly assisting in the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit when accessing the Internet, World Wide Web, or any part thereof by way of any computer, computer system, computer network, computer software, or any server.

C. For purposes of this Section the following definitions apply:

(1) "Client" means anyone using a computer to access a computer server.

(2) "Computer" includes an electronic, magnetic, optical, or other high-speed data processing device or system performing logical, arithmetic, and storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system. "Computer" shall not include an automated typewriter or typesetter, a machine designed solely for word processing, or a portable hand-held calculator, nor shall "computer" include any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended.

(3) "Computer network" means a set of related, remotely connected devices and communication facilities including at least one computer

system with capability to transmit data through communication facilities.

(4) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network.

(5) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.

(6) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices, or computer software.

(7) "Home Page" means the index or location for each computer site on the World Wide Web.

(8) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions, is able to support communications using the Transmission Control Protocol/Internet Protocol suite or its subsequent extensions, and other Internet Protocol compatible protocols, and provides, uses or makes accessible, either publicly or privately, high level services layered on the communications and related infrastructure described herein.

(9) "Server" means a computer that listens for and services a client.

(10) "World Wide Web" means a server providing connections to mega lists of information on the Internet; it is made up of millions of individual web sites linked together.

D. Whoever commits the crime of gambling by computer shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

E. Whoever designs, develops, manages, supervises, maintains, provides, or produces any computer services, computer system, computer network, computer software, or any server providing a Home Page, Web Site, or any other product accessing the Internet, World Wide Web, or any part thereof offering to any client for the primary purpose of the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

F. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat, at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapter 4 of Title 4, Chapters 4, 5, and 6 of Title 27, or Part V-A of Chapter 14 of Title 33 or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section, so long as the wagering is done on the premises of the licensed establishment.

G. The conducting or assisting in the conducting of pari-mutuel wagering at licensed racing facilities under the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section so long as the wagering is done on the premises of the licensed establishment.

H. Nothing in this Section shall prohibit, limit, or otherwise restrict the purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities, or other similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity.

I. The providing of Internet or other on-line access, transmission, routing, storage, or other communication related services, or Web Site design, development, storage, maintenance, billing, advertising, hypertext linking, transaction processing, or other site related services, by telephone companies, Internet Service Providers, software developers, licensors, or other such parties providing such services to customers in the normal course of their business, shall not be considered gambling by computer even though the activities of such customers using such services to conduct a prohibited game, contest, lottery, or contrivance may constitute gambling by computer for the purposes of this Section. The provisions of this Subsection shall not exempt from criminal prosecution any telephone company, Internet Service Provider, software developer, licensor, or other such party if its primary purpose in providing such service is to conduct gambling as a business.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1997, No. 1467, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Acts 1968, No. 609, § 1 enacted the Charitable Raffles, Bingo and Keno Licensing Law as Subdivision 1-A of Subpart B of Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, containing R.S. 14:90.1 to 14:90.16. Pursuant to the statutory revision authority of the Louisiana Law Institute, those provisions were redesignated as Part V-A of Chapter 14 of Title 33 of the Louisiana Revised Statutes of 1950, containing R.S. 33:4861.1 to 33:4861.16.

LSA-R.S. 14:90.3

LA R.S. 14:90.3

END OF DOCUMENT

LA R.S. 13:4721

LSA-R.S. 13:4721

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 13. COURTS AND JUDICIAL PROCEDURE  
CHAPTER 32. PARTICULAR CLASSES OF ACTIONS AND CASES  
PART I. ABATEMENT OF PUBLIC NUISANCES  
SUBPART B. GAMBLING

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 4721. Gambling houses; definition; declared public nuisances

For the purposes of this Sub-part, or for the purposes of any action or prosecution hereunder, a gambling house is (1) any place whatever where any game of chance of any kind or character is played for money, for wagers, or for tokens, and where the conduct of such place operates, directly or indirectly, to the profit of one or more individuals and not exclusively to the direct profit of the actual participants in such game; and (2) any place whatsoever where races, athletic contests and sports and games are not actually held and where opportunity is afforded for wagering upon races, athletic contests, sports and games of chance.

All gambling houses as herein defined are declared to be public nuisances, and the owner thereof, and the agent for such owner, or the lessee, sublessee or other occupants thereof are declared to be guilty of maintaining a public nuisance.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1991 Main Volume

Source:

Acts 1920, No. 192, §§ 1, 2.

Acts 1920, No. 192, § 10, has not been retained in the 1950 Revision. Before its initial amendment § 10 provided as follows:

"That where a petition is filed under this act and such petition is supported by the ex parte affidavits of two reputable citizens sworn to before any officer authorized by law to administer oaths to affidavits, detailing matters within such affiants' knowledge and clearly establishing the existance of a nuisance as defined in Section 1 of this act, the court to whom such petition and affidavits is presented shall forthwith issue a temporary injunction, to be in force until the hearing of the rule to show cause under Section 5 of this act; and said temporary restraining order shall prohibit the use of the place where said nuisance is averred to exist for any purpose, or purposes, whatsoever pending trial and determination of the said rule to show cause."

The 1920 Act was amended by Acts 1922, No. 75, and Acts 1938, No. 49, and Acts 1940, No. 120. It appears in the 1950 Revision as R.S. 13:4721 to 13:4727.

Acts 1938, No. 49, amended § 10 to provide as follows: "In order to obtain the injunction, that the Court may find necessary upon the trial of the rule to show cause provided by Section 5 of this Act, said plaintiffs shall furnish, in solido with their surety, a bond or obligation in favor of the defendant or defendants, for such sum as the Court may determine after having examined what injury the defendants may sustain from such injunction, with the surety of one good and solvent person owning real estate and residing within the jurisdiction of the Court, to secure the payment of such damages and reasonable attorneys fees and costs as may be sustained and incurred by the defendants, in case it should be decided, on the suspensive or devolutive appeal that may be taken by the defendants, that the injunction was improperly obtained, or the decree granting the same was contrary to the law and the evidence."

Acts 1940, No. 120, amended § 10, as amended in 1938, by restoring the language of the original section, with the single exception that the 1940 amendment used the words "restraining order" in place of the word "injunction", in the clause "the court to whom such petition and affidavits is presented shall forthwith issue a temporary restraining order."

Act No. 43 of 1942 adopting the Criminal Code as set out in Chapter 1 of Title 14, provided in § 3 that nothing shall effect any of the provisions of Acts 1920, No. 192, as amended, but such statute is recognized as continuing in force.

#### LAW REVIEW AND JOURNAL COMMENTARIES

Original jurisdiction in abatement suit; symposium of work of Supreme Court. Henry G. McMahon, 12 La.L.Rev. 184 (Jan. 1952).

Statutory injunction against the gambling nuisance in Louisiana. 6 La.L.Rev. 286 (May 1945).

#### LIBRARY REFERENCES

1991 Main Volume

Nuisance k61.  
WESTLAW Topic No. 279.  
C.J.S. Nuisances § 20 et seq.  
Words and Phrases (Perm. Ed.)

#### NOTES OF DECISIONS

Abatement without judicial sanction 5  
Contests, sweepstakes, and lotteries 4  
Evidence 8  
Gambling house 3  
Judicial discretion 7  
Lotteries 4  
Notice 6

Nuisance, proof of 8  
Sweepstakes 4  
Validity 1  
Validity of prior law 2

### 1. Validity

Act No. 192 of 1920, as amended in 1940 (see, now, R.S. 13:4721 et seq.), relating to abatement of gambling nuisances was not invalid as a whole because of alleged unconstitutionality of § 10 authorizing issuance of temporary restraining order, since remaining portion of act was complete and capable of being enforced in accordance with legislative intention to suppress gambling. *Womack v. Varnado*, Sup.1943, 204 La. 1019, 16 So.2d 825, appeal dismissed 64 S.Ct. 1287, 322 U.S. 717, 88 L.Ed. 1558.

Acts 1920, No. 192 as amended by Act No. 120 of 1940 (see, now, R.S. 13:4721 et seq.) relating to abatement of gambling nuisances was not unconstitutional as embracing more than one subject or as failing to indicate in its title contents of the act. *Womack v. Varnado*, Sup.1943, 204 La. 1019, 16 So.2d 825, appeal dismissed 64 S.Ct. 1287, 322 U.S. 717, 88 L.Ed. 1558.

Act No. 192 of 1920 (see, now, R.S. 13:4721 et seq.) was constitutional because it had one object, to suppress gambling, which was expressed in title and all of its provisions. *Larrabee v. Landry*, 1925, 1 La.App. 629.

Act No. 192 of 1920 (see, now, R.S. 13:4721 et seq.) did not deprive a person of his property without due process. *Larrabee v. Landry*, 1925, 1 La.App. 629.

Act No. 192 of 1920 (see, now, R.S. 13:4721 et seq.), to suppress gambling, did not enact a judgment, divest vested rights, or levy excessive fines and punishments. *Larrabee v. Landry*, 1925, 1 La.App. 629.

### 2. Validity of prior law

Acts 1920, No. 192, § 10, as amended by Acts 1940, No. 120, authorizing temporary restraining order against gambling house on ex parte affidavits of two citizens, was unconstitutional as violative of "due process of law". *Mongogna v. O'Dwyer*, Sup.1943, 204 La. 1030, 16 So.2d 829.

Acts 1920, No. 192, § 10, as amended by Acts 1940, No. 120, violated principle that a restraining order will not be granted where it may operate oppressively or where it is unreasonable and inequitable under the circumstances. *Mongogna v. O'Dwyer*, Sup.1943, 204 La. 1030, 16 So.2d 829.

Acts 1920, No. 192, § 10, as amended by Acts 1940, No. 120, violated principle that where there is power to abate a nuisance the abatement must be limited by its necessity and no unnecessary injury inflicted upon the property of the opposite party, which are matters which should be determined by the court. *Mongogna v. O'Dwyer*, Sup.1943, 204 La. 1030, 16 So.2d 829.

Acts 1920, No. 192, § 10, as amended by Acts 1940, No. 120, was unconstitutional as an unnecessary invasion of property rights and an unreasonable exercise of police power. *Mongogna v. O'Dwyer*, Sup.1943, 204 La. 1030, 16 So.2d 829.

Act No. 192 of 1920, § 10, as amended by Acts 1940, No. 120, providing that upon filing suit for injunction against maintaining gambling house supported by ex parte affidavit of two citizens, the court should issue temporary restraining order made it the mandatory duty of the judge to forthwith issue such order pending hearing on rule to show cause why the nuisance should not be abated. *Mongogna v. O'Dwyer*, Sup.1943, 204 La. 1030, 16 So.2d 829.

The Supreme Court would not consider the alleged unconstitutionality of Act No. 192 of 1920, § 10, as amended by Acts 1940, No. 120, where no contest was raised in district court regarding issuance of restraining order. *Womack v. Varnado*, Sup.1943, 204 La. 1019, 16 So.2d 825, appeal dismissed 64 S.Ct. 1287, 322 U.S. 717, 88 L.Ed. 1558.

### 3. Gambling house

Where gambling games inured to benefit or profit of saloon-keeper, saloon might fall within meaning of term "gambling house" as defined by Acts 1920, No. 192, § 1 (see, now, this section), and owner of place or lessee or sublessee or other occupant thereof would be guilty of maintaining a public nuisance. *Op. Atty. Gen. 1934-36*, p. 518.

Acts 1920, No. 192 (see, now, this section) was directed against operation of gambling houses and not against games of chance, and did not prohibit playing of pool for money or other thing of value, or playing of cards for money or other thing of value. *Op. Atty. Gen. 1920-22*, p. 1014.

### 4. Contests, sweepstakes, and lotteries

Plan whereby purchasers of tickets to moving picture theater obtained chance to win prize if present on "sweepstakes night" or "bank night" was a "lottery," precluding recovery on alleged contract with patron who had frequently attended theater on sweepstakes nights, but who was refused admittance on certain night on which his name was drawn. *Shanchell v. Lewis Amusement Co.*, App.1936, 171 So. 426.

### 5. Abatement without judicial sanction

Officer abating nuisance by destroying private property without judicial sanction does so at his peril. *Nugent v. McCurdy*, 1927, 6 La.App. 615.

### 6. Notice

The alleged repeal by Act No. 29 of 1924, making notice a prerequisite to issuance of injunction, of Act No. 192 of 1920, § 10, authorizing issuance without notice of temporary restraining order to abate gambling nuisance did not invalidate restraining order where defendant received notice. *Womack v. Varnado*, Sup.1943, 204 La. 1019, 16 So.2d 825, appeal dismissed 64 S.Ct. 1287, 322 U.S. 717, 88 L.Ed. 1558.

## 7. Judicial discretion

District judge's refusal to issue rule to show cause in statutory proceeding to abate maintenance of gambling house as public nuisance after petitioners filed petition verified by affidavits as required by Acts 1920, No. 192, § 3 (see, now, R.S. 13:4722) on ground that in judge's opinion, based on personal knowledge of facts, defendant was not maintaining public nuisance, violated constitutional mandate that all courts shall be open to persons and that justice be administered without denial, partiality or unreasonable delay. Dupuy v. Tedora, Sup.1943, 204 La. 560, 15 So.2d 886.

## 8. Evidence

Trial court properly considered gambling convictions of individuals for purposes of determining whether public nuisance of a gambling house existed on premises where they had engaged in gambling. St. Landry Parish ex rel. Goudeau v. Turf Lounge, Ltd., App. 3 Cir.1976, 331 So.2d 32.

Testimony by woman that she was employed by lounge for two weeks and worked in a back room where she occasionally dealt blackjack, that she did not provide any money for financing of blackjack game, that there was usually around \$100 at the table when she dealt, and that the proceeds of the game were split by owner of the premises, proprietor of the lounge, and another who often dealt blackjack, and evidence that numerous investigators had engaged in gambling on the premises sustained determination that the premises were being used for the public nuisance of a gambling house. St. Landry Parish ex rel. Goudeau v. Turf Lounge, Ltd., App. 3 Cir.1976, 331 So.2d 32.

Whether a petition is signed by a majority of the electors in a city or parish declaring saloons, pool halls or other obnoxious businesses to be a nuisance, is a matter for consideration of the courts and the test whether it is a nuisance is the reasonableness of such business or the use in the particular locality. Op.Atty.Gen.1940-42, p. 2375.

LSA-R.S. 13:4721

LA R.S. 13:4721

END OF DOCUMENT

LA R.S. 33:4861.21

LSA-R.S. 33:4861.21

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 4861.21. City of New Orleans; cable television bingo; licensing; restrictions; prohibitions

A. (1) The governing authority of the city of New Orleans may license bona fide veterans, charitable, educational, religious, or fraternal organizations and civic and service clubs, which possess the appropriate nonprofit designation issued by the federal Internal Revenue Service, to hold and operate the game of chance commonly known as cable television bingo played for prizes with cards and as defined in this Subsection.

(2) For the purposes of this Section, "cable television bingo" shall mean a charitable game of chance transmitted by a cable television channel and played for prizes with cards bearing numbers or other designations, five or more in one line, the holder covering numbers as eight or more similarly numbered objects are displayed, and the game being won by any player who covers a previously designated arrangement of numbers of such a card with any four or five numbers and a free spot.

B. Cable television bingo shall only be transmitted to the area within the jurisdiction of the city of New Orleans. Transmission of such games to any area outside the city of New Orleans shall be expressly prohibited.

C. Licensees to hold, operate, or conduct cable television bingo shall not be subject to the provisions of R.S. 33:4861.11(A) and (B).

D. Notwithstanding any provision of this Part to the contrary, in particular R.S. 33:4861.12, a charitable organization licensed to conduct cable television bingo may enter into a contract with a private contractor possessing demonstrated skills in the conduct and administration of charitable games of chance to provide for the operation and management of its games. Any such contract shall stipulate that payment to the contractor for professional services shall be in accordance with an estimated fee schedule based upon the number of cards sold and shall require the use of volunteer members of charitable organizations in the actual conduct of and assisting in the conduct of such games.

E. The division may adopt additional rules and regulations governing the operation of cable television bingo pursuant to the Administrative Procedure Act. [FN1] The division may also assess whatever fees may be necessary to implement this Section and the rules and regulations adopted pursuant to this Subsection.

CREDIT(S)

1988 Main Volume

Added by Acts 1987, No. 389, § 1, eff. July 8, 1987.

[FN1] R.S. 49:950 et seq.

<General Materials (GM) - References, Annotations, or Tables>

NOTES OF DECISIONS

Restrictions 1

1. Restrictions

City of New Orleans is only authorized to "license" nonprofit organizations to hold cable television bingo, and they may not go beyond that authority. Op.Atty.Gen., No. 89-116, May 16, 1989.

LSA-R.S. 33:4861.21

LA R.S. 33:4861.21

END OF DOCUMENT

LA R.S. 33:4861.15

LSA-R.S. 33:4861.15

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 4861.15. Immunity

No persons, association or corporation

(1) Possessing, selling or in any manner disposing of, in any municipality or parish, any shares, tickets or rights to participate in any game or games of chance conducted or to be conducted under any license lawfully issued pursuant to this Part,

(2) Lawfully conducting or participating in the conduct of any such game of chance, or

(3) Permitting the conduct of any such game of chance upon premises owned by him or it, of any game of chance conducted or to be conducted under any license lawfully issued pursuant to this Part, shall be liable to prosecution or conviction for violation of any provision of R.S. 14:90, however, this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of any game of chance under any license obtained by any false pretense or statement made in any application for such license or otherwise, or possessing, selling or disposing of shares, tickets, or rights to participate in, or permitting the conduct upon any premises owned by him or it of any game of chance conducted under any license known to him or it to have been obtained by any such false or fraudulent pretense or statement.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1.

<General Materials (GM) - References, Annotations, or Tables>

NOTES OF DECISIONS

Construction and application 1

1. Construction and application

Unless licensed pursuant to any of the Chapters exempted from the provisions of La.R.S. 14:90, or pursuant to La.R.S. 33:4861.1 et seq., the intentional conducting of any game of chance whereby an organization retains a percentage of a cash prize would constitute gambling. Op.Atty.Gen. No. 95-33, March 21, 1995.

LSA-R.S. 33:4861.15

LA R.S. 33:4861.15

END OF DOCUMENT

LA C.C. Art. 2983

LSA-C.C. Art. 2983

WEST'S LOUISIANA STATUTES ANNOTATED

LOUISIANA CIVIL CODE

BOOK III. OF THE DIFFERENT MODES OF ACQUIRING THE OWNERSHIP OF THINGS

TITLE XIV. OF ALEATORY CONTRACTS

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

Art. 2983. Actions for payment of gaming debts and bets

The law grants no action for the payment of what has been won at gaming or by a bet, except for games tending to promote skill in the use of arms, such as the exercise of the gun and foot, horse and chariot racing.

And as to such games, the judge may reject the demand, when the sum appears to him excessive.

HISTORICAL AND STATUTORY NOTES

1994 Main Volume

RCC 1870, Art. 2983: Same as above.

(Same as Art. 2983 of Proposed Revision of 1869.)

CC 1825, Art. 2952:

The law grants no action for the payment of what has been won at gaming or by a bet, except for games tending to promote skill in the

use of arms, such as the exercise of gun, foot, horse, and chariot racing.

Par. 2 same as par. 2, above.

(No reference in Projet.)

CC 1808, p. 420, Art. 2:

The law grants no action for the payment of what has been won at gaming or by a bet, except for games tending to promote skill in the use of arms, such as the exercise of the gun, foot, horse and chariot racing.

Par. 2 same as par. 2, above; but no punctuation after "demand."

CN 1804, Art. 1965:

The law grants no action for a gaming debt or for the payment of a bet.

CN 1804, Art. 1966:

Games tending to promote skill in the use of arms, foot and horse racing, chariot racing, tennis, and other games of the same nature which promote skill and physical exercise, are excepted from the preceding provision.

Nevertheless the court may reject the demand, when the sum appears to it excessive.

Projet du Gouvernement (1800), Book III, Title XIX, Art. 2:

The law grants no action for the payment of what has been won at gaming or by a bet, except for games tending to promote skill in the use of arms, such as the exercise of the gun, foot, horse, and chariot racing, and tennis.

And as to such games, the judge may dismiss the action, when the sums wagered or bet exceed twenty-four francs.

#### CROSS REFERENCES

Planiol, vol. 2, nos. 2108, 2111.

Abatement of public nuisances, gambling, see R.S. 13:4721 et seq.

Aleatory contract defined, see C.C. art. 2982.

Gambling, legislative power to define and suppress, see Const. Art. 12, § 6.

Gambling defined, see R.S. 14:90.

Horse racing, see R.S. 4:141 et seq.

Illegal or immoral object of contract, invalidity, see C.C. art. 2030.

Laws for preservation of public interest, see C.C. art. 7.

Loser's action to recover payments made on gaming debts and bets, see C.C. art. 2984.

Louisiana Economic Development and Gaming Corporation Law, see R.S. 4:601 et seq.

Louisiana Riverboat Economic Development and Gaming Control Act, see R.S. 4:501 et seq.

Unlawful cause of contract,  
Defined, see C.C. art. 1967.  
No obligation without cause, see C.C. art. 1966.

#### LAW REVIEW AND JOURNAL COMMENTARIES

Action on gaming and betting debts is no longer permitted because against public policy. 4 Tul.L.Rev. 600 (1930).

Chance and skill as elements of gambling in Louisiana. 30 Tul.L.Rev. 129 (1955).

Insurable interest in life policies. Frank F. Hyatt, 12 Loyola L.J. 73 (1931).

Non-actionable aleatory contract, gaming and betting. 22 Tul.L.Rev. 311 (1947).

#### NOTES OF DECISIONS

Assignment of contract 8  
Burden of proof 11  
Commercial paper given for gaming debts and bets 3  
Construction with other law 1  
Election wagers 4  
Evidence 12  
Futures 6  
Horse racing 5  
Income taxation 9  
Loans for use in gaming or in paying losses 7  
Presumptions and burden of proof 11  
Right to judicial relief, generally 2  
Sales "on call," and futures 6  
Third persons 10

##### 1. Construction with other law

This article and article 2984, denying actions to recover money won at gaming or money paid at gaming, are special statutes and control general statutes, such as Negotiable Instruments Law, R.S. 7:1 et seq. (repealed, see now R.S. 10:3-101 et seq.) and must take precedence. *Nielsen v. Planters' Trust & Savings Bank*, App.1935, 161 So. 346, annulled on other grounds 183 La. 645, 164 So. 613.

Const.1921, Art. 19, § 8, denouncing gambling, does not repeal this article, excepting from unenforceable bets, sums won on horse racing. *Mehle v. McLean*, App.1932, 139 So. 681, 19 La.App. 425.

## 2. Right to judicial relief, generally

A gambling contract not being a legitimate cause of action, money advanced upon such a contract cannot be recovered in the way of counterclaim. *Higgins v. McCrea*, 1886, 6 S.Ct. 557, 116 U.S. 671, 29 L.Ed. 764.

Courts will not render assistance to a litigant to enforce a gambling obligation. *Domino v. La Bord*, App. 1 Cir.1957, 99 So.2d 841.

Courts will not lend their aid to enforce contracts or transactions contrary to good morals or public policy, such as gambling contracts. *Russo v. Mula*, App. 1 Cir.1950, 49 So.2d 622.

Courts will not entertain actions to recover money won or lost at gambling. *Russo v. Mula*, App. 1 Cir.1950, 49 So.2d 622.

Wagering contracts are ordinarily void, and actions for recovery of money won on wagers are not sustainable. *Stewart Bros. v. Beeson*, Sup.1933, 177 La. 543, 148 So. 703.

Broker obtaining wagering contract cannot recover for his services in procuring such contract. *Stewart Bros. v. Beeson*, Sup.1933, 177 La. 543, 148 So. 703.

A petition, in a suit by a partner in a gambling firm against his copartner, which alleges that the defendant contributed the room, and that the plaintiff contributed his time and skill at gambling games; that the profits were to be equally divided; that the receipts from the business were from day to day deposited with defendant for safekeeping; and praying for an accounting and liquidation of the firm,--merely seeks a settlement of the gambling firm, and is not maintainable on the theory that the profits had been reduced to possession by the plaintiff, and then deposited with the defendant for safekeeping as the money of the plaintiff. *Martin v. Seabaugh*, Sup.1911, 128 La. 442, 54 So. 935.

No action will lie by one who is employed by the year to manage a gambling establishment, and who is discharged without cause before the expiration of the term, for the recovery of a share of the profits which he was to have received in lieu of salary. *Britt v. Davis Bros.*, Sup.1907, 118 La. 597, 43 So. 248.

Money paid a creditor to secure his claim in consideration of his withdrawing an opposition to the syndic's security cannot be recovered by the debtor appointed syndic, or his assignee in bankruptcy suing for his creditors. *Slidell v. Pritchard*, Sup.1843, 5 Rob. (LA) 101.

Where an aleatory contract is simulated, and intended to defraud, it can produce no legal effect. Nothing can be lost on it, and consequently nothing can be won. *Criswell v. Gaster*, 1826, 5 Mart. (N.S.) 130.

3. Commercial paper given for gaming debts and bets

See R.S. 10:3-101 et seq. for provisions governing negotiable instruments.

A payee of check, given in lieu of checks issued by maker in payment of gambling losses in card game at payee's gambling establishment, could not recover amount of such check from maker, whether maker furnished payee with currency or with chips in return for original checks. *Russo v. Mula*, App. 1 Cir.1950, 49 So.2d 622.

Recovery cannot be had on a note given in settlement of a gambling transaction. *Keen v. Butterworth*, App.1938, 185 So. 37.

Where 30 members of club, including plaintiff and defendant, engaged at poker and dice games under plan whereby accounts between members were not liquidated until the end of the week and then winners would collect from losers, whether winners had participated in same games as losers or not, and if a member should fail to pay his losses at the end of the week, cash received from losers who paid would be prorated among winners, and defendant could not pay his losses, and plaintiff and several other winners, instead of taking their share of cash, took defendant's notes for their winnings, plaintiff could not enforce payment of note, since it was given in settlement of a gambling transaction rather than in payment of a loan. *Keen v. Butterworth*, App.1938, 185 So. 37.

The fact that one of the winners in gambling games, who took note of one of the losers for part of his losses, may not have actually played against the loser, would not entitle the winner to recover on note, since he was seeking recovery of money lost in unlawful transaction. *Keen v. Butterworth*, App.1938, 185 So. 37.

Where the consideration for a bill or note is partly illegal because it has been given in part in payment of a gambling debt, the illegality will render the entire instrument unenforceable, unless the legal part may be separated from the illegal part. *Keen v. Butterworth*, App.1938, 185 So. 37.

Payee of cashier's check could recover amount thereof from bank issuing check, where bank paid check to indorsee after being notified by payee that check had been negotiated to cover losses sustained in gambling at roulette. *Nielsen v. Planters Trust & Sav. Bank of Opelousas*, Sup.1935, 183 La. 645, 164 So. 613.

Courts will not entertain demands for collection of notes given for gambling debts. *Bagneris v. Smoot*, Sup.1925, 159 La. 1049, 106 So. 561.

Evidence proving defense that check was given for gambling debt authorizes judgment for defendant. *Friel v. Murchison*, 1928, 8 La.App. 354.

Where an action was brought to recover on a note given by the defendant to make up a loss as a partner of the plaintiff and others in a faro banking game, it was held that such an association was not only against good morals, but highly criminal, and courts of justice are not

open to litigation of that kind. Whitesides v. McGrath, 1860, 15 La. Ann. 401.

#### 4. Election wagers

Under Civ. Code, art. 2983, declaring the law grants no right of action for the recovery of what has been won by a bet, unless in a game tending to promote skill, one who bet on the successful candidate for nomination for the office of district judge has no right of action to recover the amount of his bet, but, despite article 2984, he can recover the amount which he deposited in the hands of the stakeholder, which the latter paid the other party without authority. Guiterez v. Esteves, Sup. 1921, 149 La. 43, 88 So. 547.

A court of justice will not enforce an obligation where it appears to be nothing more than a bet in disguise on a presidential election. Barham v. Livingston, 1857, 12 La. Ann. 618.

Betting on elections being, under the laws of this state, a criminal offense, no action will lie to recover from a stakeholder an amount deposited with him as a bet. A party will not be heard who asks the court to relieve him from the consequences of having violated the law. Davis v. Holbrook, 1846, 1 La. Ann. 176.

This section grants no action for payment of what has been won by an election bet. Op. Atty. Gen., 1950-52, p. 66.

#### 5. Horse racing

Bets may be made and collected on horse races irrespective of place of race or ownership of horse. Mehle v. McLean, App. 1932, 139 So. 681, 19 La. App. 425.

Winnings of race horse trainer, resulting from contract whereby owner was to bet certain amounts for him, cannot be recovered, if won on races in state where such betting is forbidden. Vititoe v. Shea, Sup. 1926, 161 La. 984, 109 So. 785.

As the right to recover a bet on the result of a horse race has been recognized by this article, betting on horse races is not illegal. City of Shreveport v. Maloney, Sup. 1902, 107 La. 193, 31 So. 702.

Money lost on horse race may be recovered in courts. Bain v. Grillot, 1927, 6 La. App. 825.

Plaintiff garnisheed \$3,000 belonging to defendant, which had been deposited with a third party pending the issue of a horse race; afterwards an intervenor claimed the money, on the ground of having won it at the race. Defendant was shown to have been an insolvent at the time of seizure. The court would not sustain the intervention. St. Ceran v. Sherman, 1867, 19 La. Ann. 192.

A contract to run a horse race is not prohibited by law, and money won on such a race may be recovered by action in the courts; but such contracts, although permitted, are regarded with suspicion by the law, and the judge is authorized to reject the entire demand, where the same appears to him excessive. Grayson v. Whatley, 1860, 15 La. Ann. 525.

Plaintiff and another agreed to run a horse race for \$200 a side, and to forfeit \$100 in case either should conclude not to run. The stakes being deposited and the horses brought up, plaintiff's horse started fairly, but the other horse refused to go, and hence the judges were unable to decide the race. Plaintiff brought suit against the stakeholder to recover the stakes, and had verdict. It is the essence of aleatory contracts that there should be risk on one side or both, and that all risks, appertaining to the contract and not excepted, are assumed by the parties; and hence the risk that his horse might not go was one of the risks of the contract, and plaintiff was entitled to recover. *Moore v. Johnston*, 1852, 8 La. Ann. 488.

A stakeholder who pays over the amount bet on a horse race without the sanction of a majority of the judges of the race will be responsible to the winner. *Dauterive v. Broussard*, Sup. 1843, 5 Rob. (LA) 516.

#### 6. Sales "on call," and futures

See, also, Notes of Decisions under C.C. art. 2982.

Sales of property for future delivery, with the bona fide intention and obligation to make actual delivery, are lawful contracts; but if, under the form of such a contract, the real intent be merely to speculate on the rise or fall of prices, and the goods are not to be delivered, but the contract to be settled on the basis of differences of price, the transaction is a wager and is non-actionable. *Conner v. Robertson*, 1885, 37 La. Ann. 814, 55 Am. Rep. 521.

When seller received full market value of cotton in accordance with terms of "on call" contract and received from buyer advances in excess of such market value when buyer closed out contract by exercising right to call the price, sellers were liable for difference. *Baucum & Kimball v. Garrett Mercantile Co.*, Sup. 1937, 188 La. 728, 178 So. 256.

An agreement, signed by defendant, in the following language: "Bought of the [plaintiff] 3,000 barrels of Eagle steam flour at 3.85-100, f.o.b. St. Louis, for shipment, at my option, during month of March, 1893. It is further agreed and understood that if I do not want to receive the flour in March settlement may be made as follows, viz.: [Plaintiff] paying me any difference that may be an advance in value, or my paying [plaintiff] the difference between the purchase price and the market price at the time of settlement, provided the value then is less than the purchase price. Settling prices to be based on St. Louis Merchants' Exchange quotations on extra fancy flour at date of settlement,"--is void, under this article. *E. O. Stanard Mill. Co. v. Flower*, Sup. 1894, 46 La. Ann. 315, 15 So. 16.

#### 7. Loans for use in gaming or in paying losses

Plaintiff, who with defendant was participant in "poker dice" game, was not entitled to recover on check drawn by defendant for amounts advanced by plaintiff to enable defendant to continue in game. *Lamy v. Will*, App. 4 Cir. 1962, 140 So. 2d 794.

One conducting a gambling establishment and furnishing money or credit to one engaged in gambling therein has no right of action to recover

amount furnished or loaned. *Russo v. Mula*, App. 1 Cir.1950, 49 So.2d 622.

Note for money borrowed to pay gambling debt, with which lender was not connected, was not void for want of consideration. *Clemons v. Succession of Johnson.*, App.1929, 120 So. 664, 10 La.App. 230.

#### 8. Assignment of contract

In all aleatory contracts permitted under this article, the personal qualities of the parties must, more or less, form a material part of the motive to the contract; and the contract is not, therefore, assignable by one of the parties without the consent of the other. *Grayson v. Whatley*, 1860, 15 La. Ann. 525.

#### 9. Income taxation

The amounts by which professional gambler's gambling losses exceeded his gambling gains in 1940 and 1942 were not deductible as business losses from his gross income for 1941, in which his gambling gains exceeded his gambling losses, in computing his taxable net income for such year, even if all winners from him had causes of action against him under this article for amounts won. *Skeeles v. U.S.*, 1951, 118 Ct.Cl. 362, 95 F.Supp. 242, certiorari denied 71 S.Ct. 1014, 341 U.S. 948, 95 L.Ed. 1371.

#### 10. Third persons

Where plaintiff did not own gambling establishment but his employers owned a substantial interest in establishment and plaintiff occasionally worked in and tended bar in the establishment and although plaintiff knew defendant only casually he invited defendant to come to club and advanced him a substantial sum of money for purpose of engaging in a poker game in which plaintiff did not participate, and plaintiff guaranteed repayment of additional sums borrowed by defendant from other participants in the game, a number of whom were intimate friends of plaintiff, who tended bar and managed club during time poker game was in progress, plaintiff was not wholly unconnected with the illegal activity and was not an innocent bystander, and he could not maintain an action to recover the amount which he had lent to the defendant. *West v. Loe Pipe Yard*, App. 3 Cir.1960, 125 So.2d 469.

One who lends money to another to pay a gambling debt incurred in a transaction with which the lender was wholly unconnected may be classified as an innocent bystander to the illegal activity, and he may maintain an action to recover the amount which he has lent, but one who owns or operates a gambling establishment and who lends money for purpose of paying a gambling debt incurred in such establishment cannot recover the money lent, because he was not wholly unconnected with the illegal activity. *West v. Loe Pipe Yard*, App. 3 Cir.1960, 125 So.2d 469.

Recovery is not barred on an obligation contracted with a third person for the purpose of gambling even though that person knew the purpose of the transaction. *Domino v. La Bord*, App. 1 Cir.1957, 99 So.2d 841.

#### 11. Presumptions and burden of proof

Where a contract for the sale of property which the vendor does not possess, to be delivered in future, is claimed to be illegal as being a mere speculation in the future price without any intention of delivering or accepting the property, the burden of proof is on the party alleging the illegality. *Conner v. Robertson*, 1885, 37 La. Ann. 814, 55 Am. Rep. 521.

Party charging that contract is infected with intent making it wagering contract has burden to establish allegation. *Stewart Bros. v. Beeson*, Sup. 1933, 177 La. 543, 148 So. 703.

Plaintiffs, as agents of defendant, entered into certain contracts of sale of cotton for future delivery with third persons. The legality of said contracts depends on the dealings between the parties thereto, and cannot be affected by the fact that in various previous transactions which plaintiffs, as agents, had made with other third persons, settlements had been made by adjustment of differences. This raises no presumption that the parties to these contracts intended and implicitly consented to such mode of settlement. *Gruner v. Stucken*, Sup. 1887, 39 La. Ann. 1076, 3 So. 338.

The court has no right *ex officio* to declare a bet excessive on its face without any proof indicating the pecuniary standing of the parties to the bet. Under the Code, the presumption is that a bet is valid until the contrary is shown. *St. Ceran v. Sherman*, 1866, 18 La. Ann. 520.

## 12. Evidence

In action for balance due on contract for sale of restaurant business, evidence was insufficient to show that such balance was to be paid out of intake from slot and pin ball machines in place of business at time of sale. *Thurston v. Mitchell*, Sup. 1940, 194 La. 1037, 195 So. 531.

Evidence proving defense that check was given for gambling debt authorizes judgment for defendant. *Friel v. Murchison*, 1928, 8 La. App. 354.

LSA-C.C. Art. 2983

LA C.C. Art. 2983

END OF DOCUMENT

LA R.S. 33:4861.13

LSA-R.S. 33:4861.13

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 4861.13. Statement of receipts; expenditures; books and records

A. The organization or association which held, operated, or conducted the game and its member or members who were in charge thereof, shall furnish to the clerk of the municipality or governing body of the parish and the division the following information not less than quarterly:

(1) A verified statement showing the amount of the gross receipts derived from each such game of chance, that shall include receipts from the sale of shares, tickets, or rights in any manner connected with participation in said game or the right to participate therein.

(2) Each item of expense incurred, or paid, and each item of expenditure made or to be made.

(3) Name and address of each person to whom each such item has been, or is to be paid, with a detailed description of the merchandise purchased or the service rendered therefor.

(4) The net profit derived from each such game of chance, and the uses to which such net profit has been or is to be applied.

(5) A list of prizes offered or given, with the respective values thereof.

B. Each licensee shall maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

C. All licensees shall maintain records and submit reports as provided by rules of the division. Such rules may require that all income of a licensee derived from charitable gaming be recorded to the extent necessary to disclose gross and net income.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1. Amended by Acts 1983, No. 576, § 1; Acts 1986, No. 752, § 1, eff. July 8, 1986.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1988 Main Volume

The 1983 amendment, in subsec. A, deleted "Within fifteen days after the conclusion of the holding, operating and conducting of any such game of chance" preceding "the organization or association" and inserted "Not later than ten days after the end of the month in which the game of chance was held, operated, or conducted", substituted "game" for "same" preceding "and its member", deleted "duly" preceding "verified statement" in par. (1), deleted "and" following "values thereof" in par. (5), and capitalized the i in "It" at the beginning of subsec. B.

In this section as amended in 1983, the subsection and paragraph designations, as well as attendant capitalization and punctuation changes, were made, "the following:" was substituted for a comma following "parish" in subsec. A, and "that" was substituted for "which" on authority of R.S. 24:253.

The 1986 amendment in subsec. A, substituted "The organization or association" for "Not later than ten days after the end of the month in which the game of chance was held, operated, or conducted, the organization or association", inserted commas following "operated" and "thereof" and substituted "and the division the following information not less than quarterly" for "the following"; in par. (1) of subsec. A inserted a comma following "tickets"; in par. (3) of subsec. A substituted "service" for "services"; in par. (4) of subsec. A placed a period following "applied"; in subsec. B substituted "Each licensee shall maintain" for "It shall be the duty of each licensee to maintain"; and added subsec. C relating to records and reports.

LSA-R.S. 33:4861.13

LA R.S. 33:4861.13

END OF DOCUMENT

LA R.S. 15:31

LSA-R.S. 15:31

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 15. CRIMINAL PROCEDURE  
CHAPTER 1. CODE OF CRIMINAL PROCEDURE ANCILLARIES  
CODE TITLE III. THE CORONER AND OTHER OFFICERS

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 31. Confiscation and destruction of gambling devices

A. (1) All law enforcement officers of municipal police forces, sheriffs' departments, and the division of state police are hereby authorized and empowered and it is made mandatory and compulsory on their part to confiscate and immediately destroy all gambling devices or machines used for gambling that come to their attention.

(2) Any gaming device or equipment in possession of a licensed manufacturer, seller, distributor, transporter, or repairman in this state shall not be subject to confiscation and destruction unless such device or equipment is being used for unlawful gambling activities. If such confiscated device or equipment is considered an antique under Louisiana law, the device may be sold and such proceeds shall go to the office of state police fund as provided in R.S. 47:7001.

B. As used in this section the term "gambling device" means:

(1) any slot machine; or (2) any machine, mechanical or electronic device of any sort whatsoever with a cash automatic payout device; or (3) a pinball or other ball machine, mechanical or electronic device equipped with a mechanism to release the number of free games or replays and a mechanism to record the free games or free plays so released.

C. Whenever any other machine, mechanical or electronic device, including but not limited to roulette wheels and similar devices, designed and manufactured primarily for use in connection with gambling, and (1) which, when operated, may deliver, as the result of the application of an element of chance, any money or property, or (2) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property, is used to conduct gambling, then following the conviction of any person for the crime of gambling by use of any such machine or device, the court wherein the verdict of guilty was returned shall order the immediate destruction of the machine or device by the proper law enforcement agency of the parish wherein the machine or device was used for gambling.

D. Whenever any machine or other mechanical or electronic device of any kind whatsoever, not designed and manufactured primarily for use in connection with gambling, including specifically but not limited to coin-operated bowling games, shuffle alleys, mechanical baseball games, pinball games, mechanical guns, electronic ray guns, digger type machines, iron claws, and all similar types of coin-operated games, is used to conduct gambling, then following the conviction of any person for the crime of gambling by use of any such machine or device, the court wherein the verdict of guilty was returned shall order the immediate destruction of the machine or device by the proper law enforcement agency of the parish wherein the machine or device was used for gambling.

E. The ownership of a federal gambling stamp for any machine or device, other than a machine commonly known as an "iron claw" or a "digger" machine, shall be absolute proof of its use for purposes of gambling, and neither the State of Louisiana nor any subdivision, agency, agent or enforcement officer shall be liable civilly or criminally for the destruction of any gambling device or gambling machine for which a federal gambling stamp has been issued.

CREDIT(S)

1992 Main Volume

Acts 1966, No. 311, § 2, eff. Jan. 1, 1967. Amended by Acts 1972, No. 130, § 1, eff. Jan. 1, 1973; Acts 1987, No. 443, § 2.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1992 Main Volume

Former Parts I through XXII of Chapter 1 of Title 15 were revised as new Chapter 1 of Title 15 by Acts 1966, No. 311, § 2, effective January

1, 1967. For disposition of the subject matter of the sections comprising these former parts, see notes and tables at the beginning of this title [enter GM].

1966 Revision:

No change.

The 1972 amendment deleted "; exceptions" from the end of the section heading and rewrote this section, which prior thereto provided:

"A. All officers of the State of Louisiana are hereby authorized and empowered and it is made mandatory and compulsory on their part to confiscate and immediately destroy all gambling devices or machines used for gambling that may come to their attention and that they may find in operation. The ownership of a federal gambling stamp for the machine or device shall be absolute proof of its use for purposes of gambling, except as set forth in Subsection B of this Section, and neither the State of Louisiana nor any subdivision, agency, agent, or enforcement officer shall be liable civilly or criminally for the destruction of any gambling device or gambling machine for which a federal gambling stamp has been issued.

"B. This Section shall not apply to any games, machines, or other devices, where there is no cash automatic payout and where there is an element of skill involved in the playing, including specifically coin-operated bowling games, shuffle alleys, pinball games, mechanical baseball games, electronic ray guns, mechanical guns, digger type machines, iron claws, and all similar types of coin-operated amusement games, as licensed under Subsections A, B, C, and E of R.S. 47:375."

Section 2 of Acts 1972, No. 130 provides that the provisions of this Act shall take effect and become operative on January 1, 1973, and they shall be enforced on that date and thereafter.

The 1987 amendment designated the existing text of subsec. A as par. (1) thereof and inserted a comma following "departments"; and added par. A(2) relating to gaming devices or equipment in possession of licensed manufacturers, etc., and the sale of antique confiscated devices or equipment.

Prior Laws:

Acts 1898, No. 57.  
Acts 1908, No. 107.  
Acts 1928, No. 231, § 1.  
Acts 1962, No. 361, § 1.  
R.S. 15:26.1.

CROSS REFERENCES

Exemption of certain games and gaming devices authorized by the Louisiana economic development and gaming corporation act from prohibitions contained in this section, see R.S. 4:669.

Gambling, see R.S. 14:90.

Game regulations, see R.S. 4:10 et seq.

License tax on mechanical or electronic amusement machines or devices,  
see R.S. 47:359.

#### LIBRARY REFERENCES

1992 Main Volume

Gaming k58, 61.  
WESTLAW Topic No. 188.  
C.J.S. Gaming §§ 70, 78, 79.

#### UNITED STATES CODE ANNOTATED

Taxes on wagering, see 26 U.S.C.A. § 4401 et seq.

#### NOTES OF DECISIONS

Antique slot machines 18  
Burden of proof 26  
Carriers of gambling devices 10  
Claw machines, gambling devices 16  
Construction and application 3  
Contraband status of gambling devices 11  
Dealers of gambling devices 10  
Duty of law-enforcement officers, seizure and destruction of gambling  
devices  
    23  
Evidence 25  
Free plays, gambling devices 13  
Gambling devices 7-20  
    Gambling devices - In general 7  
    Gambling devices - Antique slot machines 18  
    Gambling devices - Claw machines 16  
    Gambling devices - Contraband status of gambling devices 11  
    Gambling devices - Free plays 13  
    Gambling devices - Gambling schools 19  
    Gambling devices - Items with legitimate uses 8  
    Gambling devices - Manufacturers, dealers, repairers, and  
carriers of gambling devices 10  
    Gambling devices - Monetary payout 14  
    Gambling devices - Sales boards and punch boards 15  
    Gambling devices - Skill and pleasure of player 12  
    Gambling devices - Slot machines 17  
    Gambling devices - Use in gambling 9  
    Gambling devices - Vending machines 20  
Gambling schools, gambling devices 19  
Insurance 28  
Interstate commerce 5  
Items with legitimate uses, gambling devices 8  
Manufacturers, dealers, repairers, and carriers of gambling devices 10  
Monetary payout, gambling devices 14  
Money found inside devices, seizure and destruction of gambling devices  
24  
Presumptions and burden of proof 26  
Private dwellings 21  
Punch boards, gambling devices 15

Repairers of gambling devices 10  
Repeals 4  
Review 27  
Sales boards and punch boards, gambling devices 15  
Seizure and destruction of gambling devices 22-24  
    Seizure and destruction of gambling devices - In general 22  
    Seizure and destruction of gambling devices - Duty of  
law-enforcement officers 23  
    Seizure and destruction of gambling devices - Money found inside  
devices 24  
Self-incrimination 2  
Skill and pleasure of player, gambling devices 12  
Slot machines, gambling devices 17  
Suppression of gambling generally 6  
Use in gambling, gambling devices 9  
Validity 1  
Vending machines, gambling devices 20

#### 1. Validity

Due process clause of Fifth Amendment barred the forfeiture of pinball machines where seizure was made without prior notification to owners of such machines that the tax was due or that seizure would be the penalty for nonpayment where the tax was paid, though late, and where the machines were not per se illegal in Louisiana. *U. S. v. One Bally Sun Valley Pinball Mach.*, W.D.La.1972, 340 F.Supp. 307.

Since a gambling device, as defined by this section, constitutes contraband, this section requiring its confiscation and immediate destruction does not violate due process or property rights under either State or Federal Constitution. *State v. Madere*, Sup.1981, 400 So.2d 665.

This section, allowing police to summarily destroy slot machines, which historically have been treated as contraband, follows mandate of LSA-Const. Art. 12, § 6 to suppress gambling and thus does not violate provisions of LSA-Const. Art. 1, §§ 2, 4, regarding due process and right to private property. *Brown v. State, Through Dept. of Public Safety, Division of Louisiana State Police*, Sup.1980, 392 So.2d 415, certiorari denied 101 S.Ct. 3085, 452 U.S. 940, 69 L.Ed.2d 955.

This section, insofar as it deals with the confiscation and immediate destruction, without judicial proceedings, of those items included within the definitional term "gambling device," is unconstitutional. *Brown v. State, Through Dept. of Public Safety, Division of Louisiana State Police*, App. 1 Cir.1980, 385 So.2d 436, writ granted 386 So.2d 357, reversed 392 So.2d 415, certiorari denied 101 S.Ct. 3085, 452 U.S. 940, 69 L.Ed.2d 955.

Statute authorizing state police officers to confiscate and destroy gambling devices known as slot machines did not unlawfully delegate legislative power to the officers. *Vaughan v. Dowling*, Sup.1962, 243 La. 390, 144 So.2d 371.

Appellants had due process of law where destruction of the machine was not ordered until after a full hearing and determination of the Court that it was a gambling device. (Per McCaleb, J., with two Justices

concurring and three Justices concurring in the decree.) State v. Ricks, Sup.1949, 215 La. 602, 41 So.2d 232.

If gambling slot machines were property susceptible of ownership, Acts 1928, No. 231, § 1 (see, now, this section) was unquestionably violative of the constitutional guarantee of due process; but if they were things obnoxious to the public health or safety or to the public morals, they were contraband and proper subjects for summary confiscation and destruction under the police power of the State. (Per McCaleb, J., with two Justices concurring and three Justices concurring in the decree.) (Per McCaleb, J., with two Justices concurring and three Justices concurring in the decree.) State v. Ricks, Sup.1949, 215 La. 602, 41 So.2d 232.

The Legislature, in the exercise of its police power, had the right to declare that gambling slot machines should be confiscated, and the fact that destruction of the slot machine was ordered without notice or hearing did not render the statute unconstitutional as depriving any claimant thereto of due process, as he could not have or acquire property rights in the condemned article. (Per McCaleb, J., with two Justices concurring and three Justices concurring in the decree.) er McCaleb, J., with two Justices concurring and three Justices concurring in the decree.) (Per McCaleb, J., with two Justices concurring and three Justices concurring in the decree.) State v. Ricks, Sup.1949, 215 La. 602, 41 So.2d 232.

## 2. Self-incrimination

Registration requirement found in forfeiture provisions of Gambling Devices Act (15 U.S.C.A. §§ 1173, 1177) was not violative of claimants' privilege against self-incrimination, where, at time forfeiture of gambling devices found in claimant's possession was sought, Louisiana gambling device confiscation statute excluded from its operation type of machines involved, and only manner in which state prosecution could have resulted would have been if proof was available that owner or possessor was actually engaged in gambling activity. U. S. v. 5 Gambling Devices, W.D.La.1972, 346 F.Supp. 999.

Forfeiture of pinball machines would not violate Fifth Amendment privilege against self-incrimination of owners of such machines, where Louisiana gambling device confiscation statute expressly excludes "pinball games" from its operation, and where the State could successfully prosecute under Louisiana law only if the possessor or owner was engaged in a gambling operation, which in practice meant proving actual payoffs. U. S. v. One Bally Sun Valley Pinball Mach., W.D.La.1972, 340 F.Supp. 307.

## 3. Construction and application

Statutes imposing forfeitures must be strictly construed and construed most favorably to those against whom the forfeiture is directed. Armbruster v. Behan, 1906, 3 Orleans App. 184.

Since this section imposes a forfeiture, it must be strictly construed and must be construed in favor of those against whom forfeiture is directed. Op.Atty.Gen., March 12, 1956.

#### 4. Repeals

Where statute making mandatory confiscation and destruction of gambling machines and subsequent statute, R.S. 47:375, providing for payment of occupational license tax on all gambling machines were embodied in revised statutes, which constitute a single act of the Legislature, adopted as a whole, they stood on a parity with each other with neither provision having the effect of repealing the other. *Guillot v. Nunez*, Sup.1954, 225 La. 301, 72 So.2d 513.

R.S. 1:15 and LSA-C.C. art. 23 providing that repeal of a repealing law shall not revive the first law were not applicable where R.S. 47:375 providing for occupational license tax on gambling machines and statute providing for mandatory confiscation and destruction of gambling machines, had been incorporated in revised statutes, which had the effect of re-enacting all statutory provisions therein contained. *Guillot v. Nunez*, Sup.1954, 225 La. 301, 72 So.2d 513.

Acts 1928, No. 231, § 1 (see, now, this section), requiring officers to confiscate and destroy all slot machines was not repealed by the Acts 1942, No. 43 adopting a criminal code and repealing such prior acts as were repugnant to any of the provisions of the Criminal Code. *Schimpf v. Thomas*, Sup.1943, 204 La. 541, 15 So.2d 880.

#### 5. Interstate commerce

Where no Louisiana law either specifically or impliedly legalized gambling devices where possibility of winning was the result of the application of an element of chance, bingo-type pinball machine was not within exemption of Gambling Devices Act (15 U.S.C.A. § 1171 et seq.) that it is not unlawful to transport in interstate commerce any gambling device into any state in which the device is specifically enumerated as lawful in a statute of that state. *U. S. v. Bally Mfg. Corp.*, E.D.La.1972, 345 F.Supp. 410.

#### 6. Suppression of gambling generally

The authority given to the Office of the State Police to regulate gaming equipment manufactured, distributed, transported or repaired outside the State does not require pervasive regulation of all persons involved in such activities inside the State. *Op. Atty. Gen. No. 88-131*, Jan. 11, 1989.

#### 7. Gambling devices--In general

"Horse race" and other electrical console machines, which had all physical characteristics of slot machines and which could be converted to automatic pay-off machines within short time, were gambling devices, subject to seizure and destruction. *Thoman v. Grevemberg*, Sup.1956, 229 La. 529, 86 So.2d 181.

A machine, which had most of the general characteristics of a slot machine, and which gave free plays when certain combinations of animal figurines lighted up, but which had no automatic pay-off device, could not be destroyed under gambling devices statute. *Op. Atty. Gen.*, March 12, 1956.

8. ---- Items with legitimate uses, gambling devices

The laudable purpose of suppressing gambling cannot justify summary seizure and destruction of items legally possessed which are not being used for gambling. *Brown v. State, Through Dept. of Public Safety, Division of Louisiana State Police*, App. 1 Cir.1980, 385 So.2d 436, writ granted 386 So.2d 357, reversed 392 So.2d 415, certiorari denied 101 S.Ct. 3085, 452 U.S. 940, 69 L.Ed.2d 955.

Under this section authorizing law enforcement officers to confiscate and immediately destroy all gambling devices or machines used for gambling, with term "gambling devices" defined as including slot machine, any gambling device, as defined, may be confiscated and immediately destroyed regardless of whether in use at time of seizure; however, other machines, capable of legitimate use, are to be destroyed only when it is shown that they are being used to conduct gambling. *State v. Madere*, Sup.1977, 352 So.2d 666.

9. ---- Use in gambling, gambling devices

For purposes of determining whether antique slot machines used at religious service organization's charitable event were properly seized as contraband, evidence supported conclusion that event was bona fide affair conducted for charitable purposes and that no unlawful gambling took place; net proceeds from event were not for benefit of organization, but for charitable purposes, and organization obtained charitable gambling license, albeit after event ended and machines were seized. *Alexander v. State Dept. of Public Safety and Corrections*, App. 5 Cir.1990, 572 So.2d 644, writ denied 575 So.2d 371.

Slot machines, which were seized from house and garage, were subject to immediate confiscation and destruction, notwithstanding that at time of seizure they were not being used for gambling and that many were allegedly in such state of repair that they could not have been so used. *State v. Madere*, Sup.1977, 352 So.2d 666.

Slot machines, which were stored in a closed garage at private residence, were dusty, covered with cobwebs, and in some cases stripped of vital parts, were not contraband under this section empowering all state officers to confiscate and immediately destroy all gambling devices or machines used for gambling that may come to their attention or that they may find in operation. *Gascon v. State Through Dept. of Public Safety*, App. 1 Cir.1972, 263 So.2d 81.

In enacting this section empowering state officers to confiscate and immediately destroy all gambling devices or machines used for gambling that may come to their attention and that they may find in operation, it was intent of legislature to define slot machines as contraband when they are in operation, and under this statute, there is no authority for destruction of machines unless they are found to be in operation. *Gascon v. State Through Dept. of Public Safety*, App. 1 Cir.1972, 263 So.2d 81.

Slot machines may be confiscated and destroyed whether they are found to be in operation or not. *Thoman v. Grevemberg*, Sup.1956, 229 La. 529, 86 So.2d 181.

Slot machines, even though they were held by persons who were trying to liquidate their slot machine business and who had no intention of operating the machines within state, were contraband and subject to destruction. *Killian v. Craft*, Sup.1954, 226 La. 374, 76 So.2d 401.

State officers must confiscate and immediately destroy all slot machines that may come to their attention, whether the machines are then being operated or not. *Schimpf v. Thomas*, Sup.1943, 204 La. 541, 15 So.2d 880.

It was not unlawful for owner or lessee or proprietor of building or premises to permit slot machine or other similar mechanical device to be in building or on premises unless machine was operated in violation of Acts 1908, No. 107, § 1 (see, now, this section) or unless a business of some nature was conducted in the building or on the premises. *State v. Croal*, Sup.1941, 198 La. 820, 5 So.2d 16.

10. ---- Manufacturers, dealers, repairers, and carriers of gambling devices

Law enforcement officers may seize and destroy video poker and blackjack machines except when in the hands of a licensed manufacturer, transporter, dealer, or repairman and not being used illegally. Op.Atty.Gen., No. 88-630, Jan. 6, 1989.

11. ---- Contraband status of gambling devices

Amendment of R.S. 47:375 respecting seizure of gambling machines upon which license taxes had not been paid by changing the procedure to be taken in enforcing payment of tax levied on gambling machines and directing collector to turn machines over to properly authorized officials for disposal of such machines or devices as provided by law clearly indicated intent of Legislature to leave gambling machines in category of contraband and not lift them to status of property capable of private ownership. *Guillot v. Nunez*, Sup.1954, 225 La. 301, 72 So.2d 513.

12. ---- Skill and pleasure of player, gambling devices

This section and R.S. 47:375 taxing gambling devices and providing for confiscation and destruction of gambling devices wherein the payoffs involve the exercise of skill of the operator or player are not applicable to gambling- type machines where payoffs are determined by element of chance. *U. S. v. Bally Mfg. Corp.*, E.D.La.1972, 345 F.Supp. 410.

Marble machines which were played purely for skill and pleasure were not prohibited but if Mayor and Board of Aldermen held that such machines were to be disallowed they were not to be destroyed but were to be prohibited and closed. Op.Atty.Gen.1934-36, p. 209.

A ball machine played for pleasure and based on skill and involving no gambling or betting was permitted under Act No. 107 of 1908 (see, now, this section). Op.Atty.Gen.1934-36, p. 208.

13. ---- Free plays, gambling devices

Mint vending slot machines which at irregular intervals delivered allegedly nonredeemable tokens in varying quantities which could be used in place of coins to operate the machines were subject to confiscation as "gambling devices". O.D. Jennings & Co. v. Maestri, E.D.La.1938, 22 F.Supp. 980, affirmed 97 F.2d 679.

Coin-operated electrically-actuated machine which required no skill for operation, registered free replays if illuminated figures formed winning combination, and did not automatically pay out money for such combinations was gambling device known as "slot machine". Vaughan v. Dowling, Sup.1962, 243 La. 390, 144 So.2d 371.

Proof that money was passed over counter for free plays registered on coin-operated electrically-actuated machine was not necessary in order to constitute the machine a "slot machine" or gambling device subject to confiscation and destruction. Vaughan v. Dowling, Sup.1962, 243 La. 390, 144 So.2d 371.

This section compels law enforcement officers to confiscate electronic arcade devices which release free plays and record the number of free plays released. Op.Atty.Gen., No. 84-468, June 6, 1984.

#### 14. ---- Monetary payout, gambling devices

Where no skill was exercised in operation of coin-insertion machines, but player could win free games thereon which could be cashed in for over-the-counter pay-off, such machines, though they had no automatic pay-off mechanism, were gambling devices known as "slot machines" within meaning of statute. Snell v. Brown, App. 1 Cir.1958, 104 So.2d 242.

Where a machine had been used for gambling; where it had all of the characteristics of a slot machine, other than the automatic ejection of money or tokens redeemable in money or property, or rather, it had been so fixed that it could not pay off automatically (but it could be converted into an automatic pay-off machine within a short space of time by a qualified mechanic), the plugging of the automatic pay off did not have the magical effect of placing the machine beyond the pale of the law. (Per McCaleb, J., with two Justices concurring and three Justices concurring in the decree.) State v. Ricks, Sup.1949, 215 La. 602, 41 So.2d 232.

Automatic money pay-off slot machines violated gambling provision of Criminal Code (see, now, R.S. 14:90), and also violated gambling device statute. Op.Atty.Gen.1946-48, p. 139.

A "marble machine" which pays off in money is illegal because it is similar to a slot machine, but it could not be confiscated under statute because authority there given covered only slot machines. Op.Atty.Gen.1936-38, p. 143.

Machine known as "Pace's Races" which had an automatic payoff device and afforded player an opportunity to gamble in operation could not be legally operated in Louisiana. Op.Atty.Gen.1934-36, p. 197.

Under Act No. 107 of 1908 (see, now, this section) machine that vended checks as well as gum only, with checks redeemable in merchandise or

cash, was prohibited, but was not to be destroyed unless there was a clear gambling feature to it which would classify it strictly as a slot machine. Op.Atty.Gen.1934-36, p. 192.

15. ---- Sales boards and punch boards, gambling devices

Under Acts 1898, No. 57, as amended by Acts 1908, No. 107 (see, now, this section), making it misdemeanor to keep or to use a slot machine or "similar mechanical device", sales boards and punch boards were within term "similar mechanical device". Op.Atty.Gen.1932-34, p. 215.

16. ---- Claw machines, gambling devices

Under Act No. 57 of 1898 as amended by Act No. 107 of 1908 (see, now, this section), claw machine operated by inserting a nickel and rotating a derrick pointing in direction desired by player which caused boom to descend and claw to close on prize was not a slot machine or a "similar mechanical device" within the act. Op.Atty.Gen.1934-36, p. 193.

17. ---- Slot machines, gambling devices

Machines found in warehouse, and belonging to person who had been convicted of gambling, operation of which machines was started by dropping a coin into a slot and each of which paid off automatically in money when played constituted "slot machines," and hence were subject to confiscation and destruction. Schimpf v. Thomas, Sup.1943, 204 La. 541, 15 So.2d 880.

Operation of slot machines was not permitted in Louisiana. Op.Atty.Gen.1934- 36, p. 196; Op.Atty.Gen.1948-50, p. 234.

Definition of slot machine as used in Act 107 of 1908 (see, now, this section) was that found in legal and ordinary dictionaries and encyclopedias. Op.Atty.Gen.1934-36, p. 208.

18. ---- Antique slot machines

Antique slot machines which had their slots plugged and pay-out devices removed, but which could have been easily reconverted for gambling use, were "slot machines" within meaning of R.S. 15:31 defining slot machines as "gambling devices" subject to confiscation. Fine v. St. Paul Fire and Marine Ins. Co., E.D.La.1983, 567 F.Supp. 1252.

Although slot machine is contraband and subject to seizure, slot machine is protected from confiscation or destruction as antique if it was manufactured at least 25 years ago, is displayed either in private dwelling or while offered for sale by licensed retail dealer who is not licensed to sell alcoholic beverages, and is not operated for unlawful gambling purposes. Alexander v. State Dept. of Public Safety and Corrections, App. 5 Cir.1990, 572 So.2d 644, writ denied 575 So.2d 371.

19. ---- Gambling schools, gambling devices

The possession for instrumental use only of blackjack tables, dice tables, baccarat tables and roulette tables on a gambling school's

equipment list is not illegal. Op.Atty.Gen., No. 79-1142, Oct. 17, 1979.

20. ---- Vending machines, gambling devices

Candy-vending machines, which, if player was lucky, would pay out tokens, were slot machines, and the manufacturer of the machines was not entitled to enjoin city officials from confiscating them as "slot machines or similar mechanical devices". O.D. Jennings & Co. v. Maestri, 1938, 97 F.2d 679.

A slot machine which gives for coin deposited therein merchandise of the value of the coin and also returns at uncertain intervals, in varying amounts, money or checks or anything of value is a "gambling device." O.D. Jennings & Co. v. Maestri, E.D.La.1938, 22 F.Supp. 980, affirmed 97 F.2d 679.

Nickel slot machines which after each play dispensed a package of mints and indicated the number of checks or coupons which it would pay on the next play were a gambling device within Act No. 7 of 1908 (see, now, this section), notwithstanding the player could at all times see what he would receive for his nickel. Tonahill v. Molony, Sup.1924, 156 La. 753, 101 So. 130.

In view of decisions of federal courts declaring mint vending machines which occasionally pay out checks, which owners of the machines might cash, were gambling devices, and in view of the fact that the Supreme Court of Louisiana had never passed on question, no department of the state had the legal right to grant a license for operation of such machines. Op.Atty.Gen.1942-44, p. 241.

Where return of coin invested in slot machine depends upon element of chance, such machines are operated contrary to law; however, ordinary automatic vending machines distributing in each and every case certain amount of merchandise for definite sum are not slot machines or gambling devices, but merely automatic salesmen. Op.Atty.Gen.1928-30, p. 80.

Gum-vending machines, used in a way to attract attention and patronage of public, were slot machines. Op.Atty.Gen.1922-24, p. 398.

21. Private dwellings

Evidence supported conclusion that hall that was owned and operated by religious service organization and that was site of charitable event that included gambling was "private dwelling," and thus that antique slot machines were excepted from seizure as contraband; author of legislation dealing with antique machines stated that term was intended to refer to any type of dwelling that was neither public dwelling, public building, nor public facility, and organization was private organization chartered as nonprofit charitable organization; moreover, statutory scheme governing gambling, gambling devices, and games of chance reflected legislative intent to make allowances and exceptions when activities were operated or performed under auspices of charitable organizations for charitable purposes. Alexander v. State Dept. of Public Safety and Corrections, App. 5 Cir.1990, 572 So.2d 644, writ denied 575 So.2d 371.

## 22. Seizure and destruction of gambling devices--In general

According to latest definitive statutory expression, slot machines are inherently detrimental to community and thus properly subject of summary destruction. *Brown v. State, Through Dept. of Public Safety, Division of Louisiana State Police, Sup.1980, 392 So.2d 415, certiorari denied 101 S.Ct. 3085, 452 U.S. 940, 69 L.Ed.2d 955.*

## 23. ---- Duty of law-enforcement officers, seizure and destruction of gambling devices

Law-enforcing officers have both the right and the duty to seize and confiscate slot machines. *O.D. Jennings & Co. v. Maestri, 1938, 97 F.2d 679.*

The confiscation and destruction by officers of the state of all gambling devices known as slot machines is mandatory. *O.D. Jennings & Co. v. Maestri, E.D.La.1938, 22 F.Supp. 980, affirmed 97 F.2d 679.*

Mayor, being chief executive officer of Shreveport, had right to instruct police chief to seize illegal slot machines in such city without being in contempt of court for violating injunction restraining chief from disobeying orders of superintendent of public safety. *Dawkins v. Bazer, Sup.1934, 179 La. 724, 155 So. 3.*

City police chief was not guilty of contempt for violating injunction against disobeying orders of superintendent of public safety in seizing slot machines, as instructed by mayor without written authority from superintendent. *Dawkins v. Bazer, Sup.1934, 179 La. 724, 155 So. 3.*

Officers of state are authorized to confiscate and destroy slot machines and, if desiring further information sheriff should consult District Attorney. *Op.Atty.Gen.1936-38, p. 142.*

Superintendent of Bureau of Criminal Identification and Investigation was under a duty to destroy slot machines. *Op.Atty.Gen.1934-36, p. 207.*

Justice of the Peace and his Constable had authority to seize and destroy slot machines in their ward. *Op.Atty.Gen.1934-36, p. 207.*

## 24. ---- Money found inside devices, seizure and destruction of gambling devices

Money taken from slot machines was to be deposited in registry of court so that claimants thereof could go into court and assert claims leaving the matter for the court to determine. *Op.Atty.Gen.1934-36, p. 210.*

Money found in slot machines which had been confiscated and destroyed was to be deposited in registry of court in whose jurisdiction machine was located and district judge, at his discretion, could direct clerk of court to turn over money to general fund of parish. *Op.Atty.Gen.1934-36, p. 194.*

## 25. Evidence

In suit by manufacturer of candy-vending machines to enjoin city officials from confiscating them as "slot machines, or similar mechanical devices", the fact that a judge of the state criminal district court had many years before acquitted a defendant of operating or gambling with machines similar to those in suit was without weight or bearing in the federal court. *O.D. Jennings & Co. v. Maestri*, 1938, 97 F.2d 679.

Failure of owner of coin-operated electrically-actuated machine which owner sought to enjoin city from destroying as gambling device to call proprietor of bar where machine was placed or any of proprietor's employees or customers to testify as to manner or system employed in operating machine was required to be construed against owner. *Vaughan v. Dowling*, Sup.1962, 243 La. 390, 144 So.2d 371.

Justice of the Peace as committing magistrate must accept affidavit from citizen as to alleged possession of slot machine. *Op. Atty. Gen.* 1946-48, p. 143.

#### 26. Presumptions and burden of proof

Whether government could sustain its burden that pinball machines were designed and manufactured primarily for use in connection with gambling within meaning of Louisiana law was question of fact to be submitted to the jury in prosecution for interstate transportation in aid of illegal gambling business and conducting illegal gambling business and conspiracy and did not present basis for dismissal of indictment. *U. S. v. Bally Mfg. Corp.*, E.D.La.1972, 345 F.Supp. 410.

In view of fact that all of slot machines were destroyed before any of experts could examine them, there was no error in averaging values of all witnesses in awarding damages for alleged illegal destruction of the machines and in assuming that all of the machines were in average condition. *Gascon v. State Through Dept. of Public Safety*, App. 1 Cir.1972, 263 So.2d 81.

#### 27. Review

Supreme Court would predicate its refusal to grant to state officer a suspensive appeal, from order restraining him from destroying slot machines, upon assurance of trial court that slot machines would be retained in possession until constitutionality of statute making it a mandatory duty of state officers to immediately confiscate and destroy slot machines was decided on appeal. *Guillot v. Nunez*, Sup.1953, 225 La. 1035, 74 So.2d 205.

Restraint of state officer, from performing obligation under this section of destroying slot machines, during pendency of appeal wherein constitutionality of this section had been challenged, was not such an interference with state officer in the pursuance of his duties as to affect the orderly operation of his office and, therefore, did not entitle state officer to a suspensive appeal under this section and R.S. 13:4431 as a matter of right. *Guillot v. Nunez*, Sup.1953, 225 La. 1035, 74 So.2d 205.

Where exact description and mode of operation of machine were agreed upon in stipulation of facts and the only question for judge was whether a machine of that description and mode of operation was a slot machine within ban of Acts 1908, No. 107 (see, now, this section), question presented was a "question of law" which Supreme Court could determine on certiorari. State v. Croal, Sup.1941, 198 La. 820, 5 So.2d 16.

The Supreme Court should not in certiorari proceeding by state, render a decision on question whether machine in contest was a slot machine within provision of Acts 1908, No. 107 (see, now, this section) prohibiting slot machines on premises or in building in a case where the information was otherwise void on its face in that it did not allege that the mechanical device was in operation on defendant's premises or that a business was conducted on the premises. State v. Croal, Sup.1941, 198 La. 820, 5 So.2d 16.

#### 28. Insurance

Under Louisiana law, where insured legally possessed antique slot machines which were not used for gambling purposes, and had substantial interest in their preservation by reason of agreement to purchase them, slot machines were not "contraband" and insurer was required to reimburse insured after they were stolen prior to effective date of R.S. 15:31.1 relating to antique slot machines, notwithstanding that such slot machines were "gambling devices" within meaning of confiscation statute (R.S. 15:31). Fine v. St. Paul Fire and Marine Ins. Co., E.D.La.1983, 567 F.Supp. 1252.

LSA-R.S. 15:31

LA R.S. 15:31

END OF DOCUMENT

LA R.S. 28:841

LSA-R.S. 28:841

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 28. MENTAL HEALTH  
CHAPTER 15. COMPULSIVE AND PROBLEM GAMBLING

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 841. Office of alcohol and drug abuse; functions related to compulsive and problem gambling

A. The office of alcohol and drug abuse of the Department of Health and Hospitals shall establish a program to provide information and referral services related to compulsive or problem gambling. The program may include treatment services and shall include provision of a twenty-four hour, toll-free telephone service, operated by persons with knowledge of programs and services available to assist persons suffering from compulsive or problem gambling behavior.

B. The office shall make information regarding the program and services available to the public and shall provide, by rule, for the design of an informational sign containing the toll-free telephone number for use in various places where gambling or gaming activities are conducted in the state, horse racing tracks, and charitable bingo parlors. The office shall provide such signs to the Louisiana Lottery Corporation, which shall require their posting at lottery retail outlets, pursuant to R.S. 47:9021.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1993, No. 200, § 2. Amended by Acts 1995, No. 1014, § 2; Acts 1995, No. 1215, § 2, eff. July 1, 1995; Acts 1997, No. 172, § 1, eff. June 13, 1997.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

A section designated as R.S. 28:841, relating to pilot juvenile diagnostic development centers for at-risk youths, was enacted by Acts 1990, No. 799, § 1 and was redesignated as R.S. 28:621 on authority of R.S. 24:253.

Acts 1995, No. 1014, § 2, and Acts 1995, No. 1215, § 2, effective July 1, 1995, both amended this section. The Acts inserted, in subsec. A, "may include treatment services" to precede "shall include" in the second sentence, designated the existing text of subsec. B as par. B(2) and inserted a new par. B(1), relating to submission of the program for delivery of services and a plan for expenditures. The enacted texts of par. B(1) were substantially similar.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, the text as enacted by Acts 1995, No. 1215, which is effective July 1, 1995, pursuant to § 6 of that Act, is set forth.

Section 4 of Acts 1995, No. 1014 and § 5 of Acts 1995, No. 1215, repealed former subsec. C, which had read:

"C. The provisions of this Section shall not be implemented until funds become available as provided for in R.S. 4:649(B) or from any other source of funds for compulsive gambling programs."

Section 5 of Acts 1995, No. 1014, § 2 of which, inter alia, amends this section, provides:

"Section 5. The provisions of Sections 1 through 4 of this Act are not intended to supersede the provisions of that Act which originated as House Bill No. 2205 of the 1995 Regular Session should that bill be enacted and become law. If that bill should become law, it is the intention of this Act to provide additional revenues to the Compulsive and Problem Gaming Fund created in that Act to be used for the purposes

provided for in that Act [House Bill No. 2205 was enacted as Acts 1995, No. 1215]."

Senate Concurrent Resolution No. 149 of the 1995 Regular Session creates and provides for the Compulsive Gambling Study Committee, to study the problem of compulsive gambling, the best practice approaches to prevent and address the problem of compulsive gambling, the most effective, responsible, and equitable way to support the infrastructure determined necessary to prevent and address the problem, and the steps that should be taken by the legislature to accomplish the establishment of the recommended infrastructure. S.C.R. No. 149 also, inter alia, sets forth the composition of the committee, provides for staff and facilities of the committee, and resolves that the committee shall submit a written report of its findings to the Senate and House of Representatives prior to the 1996 Regular Session.

Acts 1997, No. 172, in the section heading, substitutes "Office of alcohol and drug abuse" for "Office of mental health"; in the first sentence of subsec. A, substitutes "office of alcohol and drug abuse" for "office of mental health"; and in subsec. B, designates former par. (2) as the text of the subsection and deletes par. (1), which had read:

"Prior to the expenditure of any funds for the 1995-1996 Fiscal Year from the Compulsive and Problem Gaming Fund created pursuant to R.S. 28:842, the office shall submit the program for delivery of services as required by Subsection A of this Section and a plan for the expenditure of monies from the fund for this program to the Joint Legislative Committee on the Budget for its review and approval."

LSA-R.S. 28:841

LA R.S. 28:841

END OF DOCUMENT

LA R.S. 33:4861.2

LSA-R.S. 33:4861.2

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 4861.2. Definitions

For the purposes of this Part, the following definitions shall apply:

(1)(a) Except as provided in R.S. 33:4861.4(C), "charitable organization" shall mean a nonprofit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal

income tax under Section 501(c)(3), (4), (5), (6), (7), (8), (10) or (19) of the Internal Revenue Code.

(b) The provisions of this Paragraph shall be retroactive to January 1, 1989. No charitable organization as defined in R.S. 33:4861.2(1)(a) or member or employee thereof which is qualified for an exemption from federal income tax under Section 501(c)(5) or (6) and which applies for a license under the provisions of Part V-A of Chapter 14 of the Louisiana Revised Statutes of 1950 by October 1, 1989, shall be subject to any penalties for holding, operating, or conducting any game of chance authorized by that Part prior to the issuance or written denial of such license.

(c) Except as otherwise provided in this Part, an auxiliary group associated with a nonprofit veterans association, which functions in a subsidiary capacity to the parent organization and exists for the benefit and enhancement of the parent organization, shall be considered part of the parent organization for purposes of this Part.

(2) A "municipality" shall mean an incorporated municipality.

(3) "Pull-tabs" shall mean single or banded tickets or cards each with its face covered to conceal one or more numbers or symbols, where one or more card or ticket in each set has been designated in advance as a winner.

(4) "Commercial lessor" means any person or other entity other than a bona fide nonprofit organization licensed under this Part who leases any building, structure, or premises to organizations licensed under the provisions of this Part.

(5) "Distributor" means any person or other entity who sells, offers for sale, or otherwise furnishes to any person supplies or equipment for use in the conduct of any game of chance authorized under this Part.

(6) "Division" means the division of charitable gaming control of the office of state police within the Department of Public Safety and Corrections.

(7) "Manufacturer" means any person or other entity who manufactures for sale, offers for sale, or otherwise furnishes any gaming supplies or equipment for use in the conduct of any game of chance authorized under this Part.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1. Amended by Acts 1985, No. 823, § 1; Acts 1986, No. 752, § 1, eff. July 8, 1986; Acts 1986, No. 862, § 1; Acts 1987, No. 526, § 1, eff. July 9, 1987.

1999 Electronic Pocket Part Update

Amended by Acts 1989, No. 178, §§ 1, 2, eff. June 22, 1989; Acts 1990, No. 190, § 1.

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL AND STATUTORY NOTES

##### 1999 Electronic Pocket Part Update

On authority of R.S. 24:253, the text of par. (1) of this section as set forth in Acts 1989, No. 178, § 1 was redesignated as subpar. (1)(a) and § 2 of Acts 1989, No. 178 was designated as subpar. (1)(b) and "this Paragraph" and "R.S. 33:4861.2(1)(a)" were substituted for "this Act" and "R.S. 33:4861.2(1)" respectively therein.

##### 1988 Main Volume

The 1985 amendment rewrote the section heading and section which prior thereto read:

"§ 4861.2. Municipality defined

"For the purposes of this Part a 'municipality' is any incorporated municipality."

On authority of R.S. 24:253, former subsecs. A to C, as amended in 1985, were redesignated as pars. (1) to (3).

Acts 1986, No. 752, § 1 added pars. (4) to (7).

Acts 1986, No. 862, § 1 in par. (1) made subparagraph designations and added subpar. (b).

The 1987 amendment, in the introductory clause, inserted a comma; in par. (1), deleted subpar. (a) designation; in par. (1), inserted references to § 501(c)(7) and (10) of the Internal Revenue Code; and deleted former subpar. (1)(b) which read:

"(b) Any booster club for a public playground, public school, or school recognized by the Internal Revenue Service as a nonprofit institution shall be considered to be a charitable organization, provided that said booster club shall have qualified as a tax-exempt organization under Section 501(c)(7) of the Internal Revenue Code and that only one booster club so qualified per playground or school as recognized by the governing body of said playground or school may be licensed to conduct charitable games of chance. However, notwithstanding any other provision of this Part to the contrary, no booster club shall be licensed to conduct the game of chance provided for in R.S. 33:4861.17, and no person under eighteen years of age shall assist in the holding, operation, or conduct of any game of chance conducted by any booster club."

#### LIBRARY REFERENCES

##### 1988 Main Volume

Words and Phrases (Perm. Ed.)

#### NOTES OF DECISIONS

Commercial lessor 1

1. Commercial lessor

Person who leased space where charitable gambling took place and acted as agent for owner of building was subject to the provisions of both Title 33 and Title 40 with respect to charitable gaming, notwithstanding the definition of commercial lessor in Title 33 as one who leases premises to an organization licensed under the provisions "of this Part." *Devillier v. State*, Dept. of Public Safety and Corrections, Public Safety Services, Office of State Police, Div. of Charitable Gaming Control, Gaming Enforcement Section, App. 1 Cir.1993, 634 So.2d 884, writ denied 94-0224 (La. 3/18/94), 635 So.2d 1101.

Neither LSA-R.S. 33:4861.1 et seq. nor LSA-R.S. 40:1485.1 et seq. prohibit a legislator or member of his immediate family from being licensed as a commercial lessor or from having a financial interest in a community charitable gaming premises. *Op. Atty. Gen.*, No. 93-107, April 1, 1993.

LSA-R.S. 33:4861.2

LA R.S. 33:4861.2

END OF DOCUMENT

LA R.S. 18:1505.2

LSA-R.S. 18:1505.2

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 18. LOUISIANA ELECTION CODE  
CHAPTER 11. ELECTION CAMPAIGN FINANCE  
PART V. PROHIBITED PRACTICES AND LIMITATIONS; PENALTIES

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 1505.2. Contributions; expenditures; certain prohibitions and limitations

A. No person shall give, furnish, or contribute moneys, materials, supplies, or make loans to or in support of a candidate or to any political committee, through or in the name of another, directly or indirectly. This prohibition shall not apply to dues or membership fees of any membership organization or corporation made by its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of supporting, opposing or otherwise influencing the nomination for election, or election of any person to public office.

B. (1) No candidate, political committee, or other person required to file reports under this Chapter shall make any expenditure from funds the source of which is anonymous, and any contribution received by a candidate, political committee, or other person required to file

reports under this Chapter from an anonymous source and deposited shall be reported as provided in R.S. 18:1491.7(B)(19) and R.S. 18:1495.5(B)(18) and shall escheat to the state and shall be paid over to the state by such candidate, political committee, or other such person.

(2) Any single transaction involving the sale of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials, which transaction is for not in excess of twenty-five dollars and in which transaction the purchaser is not known, shall not be deemed to constitute an anonymous contribution under the provisions of this Subsection.

C. (1) No person shall make a cash contribution to a candidate or a committee and no candidate or committee shall receive cash contributions in excess of one hundred dollars during any calendar year. Any contribution in excess of such one hundred dollar aggregate amount, other than an in-kind contribution, shall be made by an instrument containing the name of the donor and the name of the payee.

(2) Upon receipt of a cash contribution of one hundred dollars or less, the candidate or committee receiving the contribution shall provide to the contributor a receipt for the exact amount of the contribution; such receipt shall contain the name, address, and social security number of the contributor, shall be signed by the contributor, and the candidate or committee receiving the contribution shall retain a copy of the receipt. If the contributor refuses to furnish his name, address, or social security number or refuses to sign the receipt, the contribution shall be immediately returned to said contributor. If the contributor is unable to write, he shall affix his mark to the receipt, and the person receiving the contribution shall affix the name of the incapacitated person to the receipt, provided he does so in the presence of a witness who shall also sign his name as witness to the mark. The copy of the receipt retained by the candidate or committee provided for in this Subsection shall be available to the supervisory committee for inspection. The supervisory committee shall promulgate rules and regulations relative to the receipt required by this Subsection.

D. (1) No person shall knowingly coerce or attempt to coerce another person to give or withhold a contribution.

(2) No person based on an individual's contribution, promise to make a contribution, or failure to make a contribution shall directly or indirectly affect an individual's employment by means of:

(a) Denial or deprivation or the threat of the denial or deprivation of any employment or position.

(b) Denial or deprivation or the threat of the denial or deprivation of the loss of any compensation, payment, benefit, or other emolument derived from or related to such employment or position.

(c) Discharge, promotion, degradation, or change in any manner in rank or classification, or the threat or promise to do so.

(3)(a) No person based on an individual's contribution, promise to make a contribution, or failure to make any contribution shall directly or indirectly affect an individual by means of:

(i) Denial or deprivation or the threat of the denial or deprivation of membership or participation in any organization.

(ii) Denial or deprivation or the threat of the denial or deprivation of the loss of any compensation, payment, benefit, or other emolument derived from or related to such membership or participation in any organization.

(iii) Discharge, promotion, degradation, or change in any manner in rank, status, or classification in any organization, or the threat or promise to do so.

(b)(i) No organization shall directly or indirectly have as a condition of membership or participation the requirement that a person make a contribution to such organization which will be used by such organization for the purpose of supporting, opposing, or otherwise influencing the nomination or election of any person to public office, for the purpose of supporting or opposing a proposition or question submitted to the voters, or for the purpose of supporting or opposing the recall of a public officer.

(ii) For the purposes of this Subparagraph, "contribution" shall have the same meaning as provided for in R.S. 18:1483(6) and shall also include any dues or membership fees of any organization.

(c) For the purposes of this Paragraph, "organization" shall mean a partnership, association, labor union, political committee, corporation, or other legal entity, including its subsidiaries.

(4) No political committee, candidate, or other person shall knowingly and willfully make a contribution or expenditure using funds which were obtained through practices prohibited in this Subsection.

(5) Any contribution received by a candidate, political committee, or other person required to file reports under this Chapter which was obtained through practices prohibited in this Subsection shall be reported as provided in R.S. 18:1491.7(B)(21) and 1495.5(B)(20) and shall escheat to the state and shall be paid over to the state by such candidate, political committee, or other such person.

E. No expenditure in excess of one hundred dollars shall be made from a petty cash fund and no expenditure shall be made from a petty cash fund for any personal services, except for gratuities paid for the serving of food or drink. No expenditure shall be made from the petty cash fund in violation of R.S. 18:1531.

F. No profit or nonprofit corporation, labor organization, or trade, business, or professional association shall make any campaign contribution or expenditure unless specifically authorized to do so whether (1) by the vote of the board of directors of the corporation, of the executive board of the labor organization or of the trade, business, or professional association at a regular or special meeting thereof, or (2) by the president, vice president, secretary or

treasurer of a corporation or labor organization whom the board has specifically empowered to authorize such contributions or expenditures, or (3) by a vote of the membership of the labor organization. No profit or nonprofit corporation, labor organization or trade, business, or professional association shall make any contribution or expenditure, other than an in-kind contribution or expenditure, except by check.

G. No committee shall receive contributions or loans or make expenditures or loans, or make or receive a transfer of funds to or from another committee in the aggregate in excess of five hundred dollars during a calendar year until it has filed the annual statement of organization required by R.S. 18:1491.1. The chairman and the treasurer of any committee which violates the provisions of this Subsection shall be subject to the penalties provided in this Part. No candidate shall make a contribution to any committee required to file an annual statement of organization by the provisions of R.S. 18:1491.1 which has not filed such a statement.

H. (1)(a) The following contribution limits are established for contributions made to candidates or the principal campaign committee and any subsidiary committee of a candidate for the following offices:

- (i) Major office--five thousand dollars.
- (ii) District office--two thousand five hundred dollars.
- (iii) Other office--one thousand dollars.

(b) The provisions of this Paragraph shall not apply to contributions made to a candidate or the principal or any subsidiary committee of a candidate by a recognized political party or any committee thereof.

(c) Notwithstanding the provisions of Subparagraph (a), the contribution limit for contributions made to an unsuccessful major office candidate, or the principal campaign committee and any subsidiary committee of such unsuccessful candidate, who does not participate in the general election and for the time period for which such candidate has a deficit for expenditures made through the day of the primary election, shall be ten thousand dollars.

(2)(a) Notwithstanding the provisions of Paragraph (1), the following contribution limits are established for contributions by political committees supporting or opposing a candidate for the following offices:

- (i) Major office--five thousand dollars.
- (ii) District office--two thousand five hundred dollars.
- (iii) Other office--one thousand dollars.

(b) Notwithstanding the provisions of Paragraph (1) and Subparagraph (2)(a) of this Subsection, the following campaign contribution limits are established for contributions by political committees supporting or opposing a candidate for the following offices, the membership of which political committee exceeds two hundred and fifty members as of the December thirty-first of the preceding calendar year, and additionally

provided that at least two hundred and fifty of the members have each contributed at least fifty dollars to the political committee during the preceding one-year period:

- (i) Major office--ten thousand dollars.
- (ii) District office--five thousand dollars.
- (iii) Other office--two thousand dollars.

No contribution in excess of the limits contained in Subparagraph (2)(a) of this Subsection shall be made by any political committee until such membership certification is made on the statement of organization form required by this Chapter and timely submitted to the supervisory committee by the applicable due date. Any political committee certified under this Paragraph shall notify the supported candidate in writing at the time any contribution is made under this Paragraph.

(c) If the contribution is made to a committee which is supporting or opposing candidates for different offices, the highest applicable limit shall apply.

(d) The provisions of this Paragraph shall not apply to recognized political parties and their committees.

(e) Notwithstanding the provisions of Paragraph (1) and Subparagraph (2)(a) of this Subsection, the contributions limit for contributions by political committees to an unsuccessful major office candidate, or the principal campaign committee and subsidiary committee of such unsuccessful candidate, who does not participate in the general election and for the time period for which such candidate has a deficit for expenditures made through the day of the primary election, shall be ten thousand dollars.

(f) Notwithstanding the provisions of Paragraph (1) and Subparagraphs (2)(a) and (b) of this Subsection, the contributions limit for contributions by political committees certified according to the provisions of Subparagraph (2)(b) to an unsuccessful major office candidate, or the principal campaign committee and subsidiary committee of such unsuccessful candidate, who does not participate in the general election and for the time period for which such candidate has a deficit for expenditures made through the day of the primary election, shall be twenty thousand dollars.

(3)(a) For purposes of this Subsection, a primary election and a general election shall constitute two separate elections. For purposes of this Subsection, for candidates and committees that participate in a general election, the reporting period for the general election shall be deemed to begin the day following the primary election.

(b) No person shall make a loan, transfer of funds, or contribution, including but not limited to funds for any purchase of campaign materials for more than twenty-five dollars, funds for the purchase of testimonial tickets, and any in-kind contribution, in the aggregate for all reporting periods for an election, as defined in this Paragraph, including reporting periods for any supplemental reports

required, in excess of the contribution limits established in Paragraphs (1) and (2) of this Subsection, except as otherwise specifically provided in this Subsection.

(c) No candidate including his principal campaign committee and any subsidiary committee thereof, shall accept from the same contributor a loan, transfer of funds, or contribution, including but not limited to funds for any purchase of campaign materials for more than twenty-five dollars, funds for the purchase of testimonial tickets, and any in-kind contribution, in the aggregate for all reporting periods of an election, as defined in this Paragraph, including reporting periods for any supplemental reports, in excess of the contribution limits established in Paragraph (1) of this Subsection, except as otherwise specifically provided in this Subsection, and except that the provisions of Paragraph (2) shall apply for contributions accepted from a political committee. The provisions of this Subparagraph shall not apply to recognized political parties and their committees.

(d) After January 1, 1989, no person shall make a loan, transfer of funds, or contribution to a candidate including his principal campaign committee with funds loaned to him without disclosing to the candidate or his committee the source of the funds. A candidate or his committee receiving such a loan, transfer of funds, or contribution shall not only report the name of the contributor, but also the source of the funds contributed.

(4) The provisions of this Subsection shall not prohibit a transfer of funds between a candidate or his principal campaign committee and any subsidiary committee thereof, provided that all parties shall comply with applicable reporting requirements.

(5) The provisions of this Subsection shall not apply to any contributions or loans a candidate makes to his own campaign.

(6)(a) For purposes of this Subsection, "loan" shall not include any loan of money by a state bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the Federal Credit Union Administration, any licensed lender under the Louisiana Consumer Law, or an insurance company, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan:

(i) Shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors, and such loan by each endorser and guarantor shall be subject to the contribution limits provided in this Subsection;

(ii) Shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

(iii) Shall bear the usual and customary interest rate of the lending institution.

(7)(a) The total amount of combined contributions for both the primary and general elections, from political committees, which may be accepted by a candidate and his principal and subsidiary campaign committees, shall not exceed the following aggregate amounts:

(i) Major office candidates--fifty thousand dollars.

(ii) District office candidates--thirty-five thousand dollars.

(iii) Other office candidates--ten thousand dollars.

(b) The provisions of this Paragraph shall not apply to contributions made by a recognized political party or any committee thereof.

I. (1) On and after January 1, 1991, contributions received by a candidate or a political committee may be expended for any lawful purpose, but such funds shall not be used, loaned, or pledged by any person for any personal use unrelated to a political campaign or the holding of a public office or party position; except that excess campaign funds may be returned to contributors on a pro rata basis, given as a charitable contribution as provided in 26 USC 170(c), given to a charitable organization as defined in 26 USC 501(c)(3), expended in support of or in opposition to a proposition, political party, or candidacy of any person, or maintained in a segregated fund for use in future political campaigns or activity related to preparing for future candidacy to elective office. However, the use of campaign funds of a candidate or his principal or subsidiary committees to reimburse a candidate for expenses related to his political campaign or his holding of a public office or party position shall not be considered personal use by the candidate. If a candidate is required by state or federal law to pay taxes on the interest earned by campaign funds of the candidate or any political committee of the candidate, the candidate may use the interest on which such tax is paid for such purpose. A payment from campaign funds shall not be considered as having been spent for personal use when the funds are used to replace articles lost, stolen, or damaged in connection with the campaign.

(2) The provisions of this Subsection shall not apply to campaign funds received prior to July 15, 1988.

J. (1) Any candidate, treasurer, or chairman of a political committee who violates any provision of Subsection H or I of this Section shall be assessed a penalty of not more than five thousand dollars or the amount of the violation, whichever is greater, except that the penalty for a knowing and willful violation shall not be more than ten thousand dollars or two hundred percent of the violation, whichever is greater. "Knowing and willful", for purposes of this Subsection, means conduct which could have been avoided through the exercise of due diligence. The civil penalties provided for in R.S. 18:1505.5 shall be inapplicable to violations of Subsection H or I. Enforcement of Subsections H and I shall be in the same manner provided for in Part VI of this Chapter.

(2) The supervisory committee shall institute civil proceedings to collect the civil penalties provided for in this Subsection as soon as the committee determines, as a result of its review and investigation of any sworn complaint or other document or information received by the

supervisory committee, that a violation of Subsection H or I of this Section has occurred. If the supervisory committee makes a determination of such violation at least ten days prior to the election in which the candidate, treasurer, or chairman of a political committee in apparent violation is participating, the supervisory committee shall institute such civil proceedings at least by the fourth calendar day prior to the election.

K. (1) During any four year calendar period commencing January 1, 1991 and every fourth year thereafter, no person shall contribute more than one hundred thousand dollars to any political committee or any subsidiary committee of such political committee, other than the principal or any subsidiary committee of a candidate. Such limitation on a contribution shall not apply to any contribution from a national political committee to an affiliated regional or state political committee.

(2) The provisions of this Subsection shall not apply to contributions made by a recognized political party or any committee thereof.

L. (1) The legislature recognizes that it is essential to the operation of effective democratic government in this state that citizens have confidence in the electoral process and that elections be conducted so as to prevent influence and the appearance of influence of candidates for public office and of the election process by special interests, particularly by persons substantially interested in the gaming industry in this state.

(2) No person to whom this Subsection is applicable as provided in Paragraph (3) of this Subsection shall make a contribution, loan, or transfer of funds, including but not limited to any in-kind contribution, as defined in this Chapter, to any candidate, any political committee of any such candidate, or to any other political committee which supports or opposes any candidate.

(3) This Subsection shall be applicable to all of the following:

(a)(i) Any person who holds a license or permit as a distributor of gaming devices, who holds a license or permit as a manufacturer of gaming devices, who holds a license or permit as a device service entity, and any person who owns a truck stop or a licensed pari-mutuel or off-track wagering facility which is a licensed device establishment, all pursuant to the Video Draw Poker Devices Control Law. [FN1]

(ii) Any person who holds a license to conduct gaming activities on a riverboat, who holds a license or permit as a distributor or supplier of gaming devices or gaming equipment including slot machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, [FN2] and any person who owns a riverboat upon which gaming activities are licensed to be conducted.

(iii) Any person who holds a license or entered into a contract for the conduct of casino gaming operations, who holds a license or permit as a distributor of gaming devices or gaming equipment including slot

machines, or who holds a license or permit as a manufacturer of gaming devices or gaming equipment including slot machines issued pursuant to the Louisiana Economic Development and Gaming Corporation Act, [FN3] and any person who owns a casino where such gaming operations are licensed.

(b)(i) Any person who has an interest, directly or indirectly, in any legal entity included in Subparagraph (a) of this Paragraph. "Interest", as used in this Subparagraph, means ownership by an individual or his spouse, either individually or collectively, of an interest which exceeds ten percent of any legal entity. An indirect interest is ownership through any number of layers of legal entities when twenty-five percent or more of each legal entity is owned by the legal entity ownership beneath it.

(ii) Any holding, intermediary, or subsidiary company of any person included in Subparagraph (a) of this Paragraph and any officer, director, trustee, or partner thereof.

(c) Any officer, director, trustee, partner, or senior management level employee or key employee as defined in R.S. 27:205(19) of any person included in Subparagraph (a) or (b) of this Paragraph.

(d) Any person subject to the provisions of R.S. 27:63(C)(4), 226(C)(4), or 261(D).

(e) The spouse of any person to whom this Subsection is made applicable by this Paragraph.

(4) This Subsection shall not prohibit an expenditure by a candidate for his own campaign or a contribution, loan, or transfer of funds by a candidate to his own political committee.

(5)(a)(i) Any person who makes a contribution, loan, or transfer of funds in violation of this Subsection shall be assessed a civil penalty in the same amounts as provided in Paragraph J(1) of this Section. The penalties provided in R.S. 18:1505.5 shall not be applicable to any violation of this Subsection.

(ii) If a candidate, committee, or person required to file reports is notified by the supervisory committee that a contribution, loan, or transfer of funds to such candidate, committee, or person was made in violation of this Subsection, such contribution, loan, or transfer of funds shall escheat to the state. Any such contribution, loan, or transfer of funds, or an amount equal thereto, shall be paid over to the state by the recipient candidate, committee, or other person required to file reports within ten business days after the recipient candidate, committee, or person required to file reports is notified by the supervisory committee that the contribution, loan, or transfer of funds was made by a person prohibited by this Subsection from making such contribution, loan, or transfer of funds.

(b) The supervisory committee shall institute civil proceedings to collect the civil penalties provided for in this Subsection as provided in Paragraph J(2) of this Section.

(c) The criminal penalties provided in R.S. 18:1505.6(C) shall be applicable to any violation of this Subsection.

(d)(i) In addition to all other applicable penalties, the violation of this Subsection by any person to whom the Subsection is applicable pursuant to Paragraph (3) of this Subsection shall be reported by the supervisory committee to the gaming division of the office of state police, the Riverboat Gaming Commission and the board of directors of the Louisiana Economic Development and Gaming Corporation.

(ii) Such a violation of this Subsection shall be prohibited conduct under the Louisiana Riverboat Economic Development and Gaming Control Act, the Louisiana Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law that renders the violator unsuitable to hold the license which made him subject to the provisions of this Subsection.

(6)(a) The gaming enforcement section of the office of state police of the Department of Public Safety and Corrections, with the technical assistance of the supervisory committee, shall provide written notification of the provisions of this Subsection to each person issued or granted a permit, license, or contract as provided in Paragraph (3)(a)(i) and (ii) of this Subsection.

(b) The Louisiana Economic Development and Gaming Corporation, with the technical assistance of the supervisory committee, shall provide written notification of the provisions of this Subsection to each person issued or granted a permit, license, or contract as provided in Paragraph (3)(a)(iii) of this Subsection.

M. (1) No foreign national shall, directly or through any other person, make any contribution of money or other thing of value, or promise expressly or impliedly, any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; nor shall any person solicit, accept, or receive any such contribution from such foreign national.

(2) As used in this Subsection, "foreign national" means:

(a) A foreign principal such as a government of a foreign country or a foreign political party, except that "foreign national" shall not mean any individual.

(b) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country, unless authorized and qualified to do business in Louisiana.

(c) An individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence and accorded the privilege of residing permanently in the United States as an immigrant.

(3)(a) Any person who makes a contribution, loan, or transfer of funds in violation of this Subsection shall be subject to the penalties provided in R.S. 18:1505.5 and R.S. 18:1505.6.

(b) If a candidate, committee, or person required to file reports is notified by the supervisory committee that a contribution, loan, or transfer of funds to such candidate, committee, or person was made in violation of this Subsection, such contribution, loan, or transfer of funds shall escheat to the state. Any such contribution, loan, or transfer of funds, or an amount equal thereto, shall be paid over to the state by the recipient candidate, committee, or other person required to file reports within ten business days after the recipient candidate, committee, or person required to file reports is notified by the supervisory committee that the contribution, loan, or transfer of funds was made by a person prohibited by this Subsection from making such contribution, loan, or transfer of funds.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1980, No. 786, § 1, eff. Jan. 1, 1981. Amended by Acts 1982, No. 266, § 1, eff. July 18, 1982; Acts 1988, No. 994, § 1, eff. Jan. 1, 1989; Acts 1989, No. 179, § 1, eff. Jan. 1, 1990; Acts 1990, No. 180, § 1, eff. Jan. 1, 1991; Acts 1990, No. 997, § 1, eff. Jan. 1, 1991; Acts 1992, No. 949, § 1, eff. Jan. 1, 1993; Acts 1993, No. 199, § 1, eff. June 1, 1993; Acts 1996, 1st Ex.Sess., No. 67, § 1, eff. July 1, 1996; Acts 1997, No. 542, § 1; Acts 1997, No. 1164, § 1; Acts 1997, No. 1420, § 1, eff. Jan. 1, 1998.

[FN1] R.S. 27:301 et seq.

[FN2] R.S. 27:41 et seq.

[FN3] R.S. 27:201 et seq.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Chapter 11 of Title 18 of the Louisiana Revised Statutes was amended and reenacted by Acts 1980, No. 786, § 1. See notes and Disposition Table preceding R.S. 18:1481.

Section 4 of Acts 1988, No. 994, effective Jan. 1, 1989, provides:

"The provisions of R.S. 18:1505.2(H)(1), (2), and (7) shall not apply to any candidate or campaign committee with outstanding debt, deficit, or obligation incurred prior to June 1, 1988 for the limited purpose of retiring such debt, deficit, or obligation."

On authority of R.S. 24:253, in the section as amended in 1988, paragraphs were designated in subsecs. B and C; punctuation changes were made in paragraphs B(1), C(2), and I(1), and in subpar. H(2)(b); capitalization changes were made in pars. H(1), H(2), and H(7); in subpar. (b) of par. H(2), "Paragraphs" was rewritten as "Paragraph", "Subparagraph" was inserted before "(2)(a) of this Subsection", and indentation was changed; and in subpar. H(6)(a), "an" was inserted before "insurance company".

In the second sentence of par. J(1), as amended by Acts 1990, No. 180, "wilful" was changed to "willful", on authority of R.S. 24:253.

On the same authority, in par. K(1) as amended by Acts 1990, No. 997, the first paragraph was run into the second paragraph, creating a single paragraph.

Acts 1993, No. 199, § 2, effective June 1, 1993, repealed subsec. D of this section. Prior to repeal, subsec. D read:

"D. No expenditure shall be made, except by check drawn on a campaign depository, to pay or furnish any funds or any other thing of value, including any reimbursement of costs, to any person or political committee for the purpose of employing any person or political committee to convey in any automobile or other motor vehicle, any elector to any polling place being used in any election or to the vicinity of such a polling place for the purpose of voting, or to any place for absentee voting or to the vicinity of such place for absentee voting for the purpose of voting absentee, or to drive or be in charge of any automobile or other motor vehicle being so used."

A new subsec. D, prohibiting coercion or affecting employment as regards to campaign contributions, was enacted by Acts 1997, No. 542, § 1.

In par. B(1) of this section, "R.S. 18:1491.7(B)(24)" and "R.S. 18:1495.5(B)(23)" were changed to "R.S. 18:1491.7(B)(19)" and "R.S. 18:1495.5(B)(18)" respectively, in 1995, pursuant to the statutory revision authority of the Louisiana State Law Institute.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as enacted in 1996, in subpar. L(3)(c), a reference to 27:205 was substituted for a reference to 4:605; and in subpar. L(3)(d), references to 27:63, 226, and 261 were substituted for references to 4:523, 626, and 661, respectively.

Acts 1997, No. 1420, §§ 1 to 4 makes technical amendments to sections in Title 18, including this section, as regards elections. Section 5 of Act 1420 provides:

"The provisions of Section 1, except as provided in hereinafter, and Section 4 of this Act shall become effective on January 1, 1998. The provisions of this Section, of R.S. 18:402(E)(4), and of Section 2 and Section 3 of this Act shall become effective on July 1, 1997."

In the first sentence of Section 5 of Act 1420, the phrase "except as provided in hereinafter" is as it appears in the enrolled bill.

In subsec. M of this section as enacted by Acts 1997, No. 1164, in the introductory clause of par. M(2), and in subpar. M(3)(a), "Subsection" was substituted for "Section" pursuant to the statutory revision authority of the Louisiana State Law Institute.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended in 1997, in subpar. M(3)(b), "Subsection" was substituted for "Section" in two places; in item

D(3)(b)(i), a comma was deleted following "participation"; and in subpar. D(3)(c), "their" was changed to "its".

#### LAW REVIEW AND JOURNAL COMMENTARIES

Corporations--work of the legislature, 1978. 39 La.L.Rev. 180 (1978).

Louisiana campaign finance: A new era of increased regulation and limitation of election activities in Louisiana. James S. Burland, 36 La.B.J. 435 (1989).

New limits on political contributions: The Disclosure Act. Robert E. Harrington, 44 La.B.J. 236 (1996).

#### UNITED STATES SUPREME COURT

First amendment, restrictions on corporate election expenditures, see Federal Election Com'n v. Massachusetts Citizens for Life, Inc., U.S.Mass.1986, 107 S.Ct. 616, 479 U.S. 238, 93 L.Ed.2d 539.

Free speech, equal protection, corporate expenditures for political candidates from general treasury, see Austin v. Michigan Chamber of Commerce, U.S.Mich.1990, 110 S.Ct. 1391, 494 U.S. 652, 108 L.Ed.2d 652, on remand 937 F.2d 608.

Ordinance limiting contributions to committees formed to support or oppose ballot measures, see Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, Cal., U.S.Cal.1981, 102 S.Ct. 434, 454 U.S. 290, 70 L.Ed.2d 492.

#### NOTES OF DECISIONS

Anonymous contributions 4  
Cash received through mail 2  
Local ordinances 1  
Use for unrelated expenses 3

##### 1. Local ordinances

A local governing authority may adopt a campaign finance ordinance, and candidates and contributors must then comply with both state law and the local ordinance. Op.Atty.Gen., No. 88-478, Oct. 6, 1988.

##### 2. Cash received through mail

Campaign Finance Disclosure Act (CFDA) requirement mandating giving of receipt for cash contributions not in excess of \$100 applies to cash received through mail. State Through Bd. of Ethics for Elected Officials as Supervisory Committee on Campaign Finance Disclosure v. Duke, App. 1 Cir.1995, 94 0398 (La.App. 1 Cir. 4/7/95), 658 So.2d 1276, amended on rehearing.

Campaign's interpretation of receipt requirement for cash contributions not in excess of \$100 as pertaining only to face-to-face transactions, not cash received through mail, did not constitute "due diligence" necessary to avoid imposition of penalty for campaign's failure to provide receipts for cash contributions received through

mail; treasurer admitted that he did not contact Supervisory Committee on Campaign Finance Disclosure or even consult with attorney specifically hired by campaign to render advise on campaign matters. State Through Bd. of Ethics for Elected Officials as Supervisory Committee on Campaign Finance Disclosure v. Duke, App. 1 Cir.1995, 94 0398 (La.App. 1 Cir. 4/7/95), 658 So.2d 1276, amended on rehearing.

### 3. Use for unrelated expenses

Record demonstrated that both candidate and campaign treasurer allowed campaign funds to be used for promotion of publication unrelated to campaign, in violation of Campaign Finance Disclosure Act (CFDA) section prohibiting "use" of campaign contributions for expenses unrelated to candidates political campaign and, thus, penalty had to be assessed, regardless of whether violation was "knowing and willful"; term "use" was broad term which encompassed concept "allowed to be used." State Through Bd. of Ethics for Elected Officials as Supervisory Committee on Campaign Finance Disclosure v. Duke, App. 1 Cir.1995, 94 0398 (La.App. 1 Cir. 4/7/95), 658 So.2d 1276, amended on rehearing.

Violation of Campaign Finance Disclosure Act (CFDA) in use of campaign funds for promotion of publication unrelated to campaign was not "knowing and willful," so as to warrant imposition of enhanced penalty; testimony indicated that members of campaign did inquire regarding legality of advertising publication during television program promoting campaign. State Through Bd. of Ethics for Elected Officials as Supervisory Committee on Campaign Finance Disclosure v. Duke, App. 1 Cir.1995, 94 0398 (La.App. 1 Cir. 4/7/95), 658 So.2d 1276, amended on rehearing.

### 4. Anonymous contributions

Term "anonymous," within meaning of Campaign Finance Disclosure Act (CFDA) section requiring that anonymous contributions escheat to state, encompasses contributions received from contributor identified by incomplete or obviously bogus name, by number only, or by totally illegible signature; such contributions do not reveal true identity of contributor. State Through Bd. of Ethics for Elected Officials as Supervisory Committee on Campaign Finance Disclosure v. Duke, App. 1 Cir.1995, 94 0398 (La.App. 1 Cir. 4/7/95), 658 So.2d 1276, amended on rehearing.

Campaign committee treasurer's failure to pay over to state contributions received from unidentifiable contributors constituted "knowing and willful" violation of requirement of Campaign Finance Disclosure Act (CFDA) mandating that anonymous contributions escheat to state, thus warranting assessment of civil penalty against treasurer in amount of 50% of each of contributions found to be anonymous, and penalty requiring that campaign pay to state total amount of contributions found to be anonymous; because identity of contributor could not be determined from totally illegible signature, from obviously bogus name, or from number, reasonable person would have concluded that money could not be kept and spent by political campaign. State Through Bd. of Ethics for Elected Officials as Supervisory Committee on Campaign Finance Disclosure v. Duke, App. 1 Cir.1995, 94 0398 (La.App. 1 Cir. 4/7/95), 658 So.2d 1276, amended on rehearing.

LSA-R.S. 18:1505.2

LA R.S. 18:1505.2

END OF DOCUMENT

LA R.S. 33:4861.3

LSA-R.S. 33:4861.3

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 4861.3. Decision whether to permit raffles, bingo and keno

The governing authority of each such municipality shall decide whether charitable raffles, bingo and keno as provided for in this Part shall be permitted within the limits of the municipality.

The governing authority of each parish shall decide whether charitable raffles, bingo and keno as provided for in this Part shall be permitted within the parish.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1.

<General Materials (GM) - References, Annotations, or Tables>

NOTES OF DECISIONS

Charitable organization 2

Exemptions 4

Geographical limits 5

Legislative delegation of authority 1

Use of government property 3

1. Legislative delegation of authority

Legislature, in excepting charitable raffles, bingos and kenos from general prohibition against gambling, has delegated decision to permit or prohibit such games to respective municipalities or governing authorities. Theriot v. Terrebonne Parish Police Jury, Sup.1983, 436 So.2d 515.

The parish council must pass an ordinance to implement the option granted to it by the legislature for a charitable organization to hold bingo games in the parish. Op.Atty.Gen., No. 85-320, June 21, 1985.

## 2. Charitable organization

Nonprofit corporation organized for preservation and maintenance of exotic felines was not "charitable organization," for purposes of city's bingo ordinance, where recipients of avowed charitable intention were exotic animals, rather than human beings. Exotic Feline Survival Ass'n, Inc. v. City of Hammond, App. 1 Cir.1985, 479 So.2d 645.

Qualifying charitable organizations are exempt from ad valorem and state and local sales taxes for bingo operations. Op.Atty.Gen., No. 92-603, Sept. 28, 1992.

## 3. Use of government property

A government body can lease a building to an organization for the purpose of conducting bingo games. Op.Atty.Gen., No. 85-320, June 21, 1985.

## 4. Exemptions

The sale of raffle tickets is a gaming activity and if the sales occur off- post, i.e., outside the territorial limits of the exclusive federal jurisdiction of Fort Polk, they would constitute gaming activity under Louisiana law and would require licensing and regulation. Op.Atty.Gen., No. 93-325, August 13, 1993.

## 5. Geographical limits

All tickets sold for a raffle to be conducted pursuant to a license granted by the St. Tammany Parish Police Jury must be sold within the unincorporated area of St. Tammany Parish. Op.Atty.Gen., No. 85-693A, Oct. 15, 1985.

LSA-R.S. 33:4861.3

LA R.S. 33:4861.3

END OF DOCUMENT

LA R.S. 33:4861.14

LSA-R.S. 33:4861.14

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 4861.14. Examination of books and records and personnel

The division and the municipality or governing body of the parish shall have power to examine or to cause to be examined the books and

records of any organization or association to which such license is issued so far as they may relate to any transactions connected with the holding and conducting of any game of chance thereunder, and to examine the books and records of any entity for the purposes of determining if net gaming proceeds are devoted entirely to the purposes allowable under R.S. 33:4861.4(B), and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game of chance under any such license but any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this Part.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1.

1999 Electronic Pocket Part Update

Amended by Acts 1993, No. 515, § 1.

<General Materials (GM) - References, Annotations, or Tables>

LSA-R.S. 33:4861.14

LA R.S. 33:4861.14

END OF DOCUMENT

LA R.S. 18:1300.21

LSA-R.S. 18:1300.21

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 18. LOUISIANA ELECTION CODE  
CHAPTER 6-D. GAMING ELECTIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 1300.21. Discontinuance of certain gaming activities, except as continued by local election

A. (1) All forms of gaming activity as defined in Paragraph (3) of this Subsection shall be discontinued unless a majority of electors voting in the election provided for in this Section permit the continuance of such gaming activity.

(2) At the time of the 1996 congressional general election, a proposition shall appear on the ballot in every parish to determine whether the conducting of gaming activity shall be permitted in the parish.

(3) As used in this Section, "gaming activity" means with respect to what is authorized by law prior to May 9, 1996 in each parish, the operation of video draw poker devices, the conduct of gaming on a

riverboat upon a designated river or waterway, or the conducting of land-based casino gaming operations at the official gaming establishment.

B. (1) The ballot for the election shall provide as follows:

LOCAL OPTION ELECTION

Within \_\_\_\_\_ (name of parish or other voting area authorized by law):

(a) Shall the operation of a land-based casino be permitted? YES ( ) NO ( )

(b) Shall riverboat gaming activities be permitted? YES ( ) NO ( )

(c) Shall the operation of video draw poker devices be permitted? YES ( ) NO ( )

(2) The secretary of state shall prepare the ballot for the election by deleting from the ballot for use in each parish the ballot question pertaining to riverboat gaming in each parish not adjoining a river or waterway designated in R.S. 27:43 and by deleting from the ballot the question pertaining to the land-based casino in each parish in which an official gaming establishment is not located as provided in R.S. 27:203.

C. A majority of votes cast on each proposition shall separately determine that issue for each parish.

D. If a majority of the electors voting in the election vote in favor of permitting the continuation of any gaming activity, then such gaming activity may be conducted in such parish as provided by law. If a majority of the electors voting in the election vote not to continue any gaming activity in the parish, then no license or permit shall be issued to conduct such gaming activity and no such gaming activity may be permitted in that parish. If any such gaming activity was, prior to May 9, 1996, authorized, licensed, or permitted, and conducted in any parish in which the voters vote against continuance of such gaming activity, the licensees or permittees for such gaming activity shall discontinue gaming activity in that parish upon expiration of their current gaming license or upon revocation, suspension, or return thereof if such revocation, suspension, or return occurs prior to expiration of the license. Video draw poker licenses may be renewed twice following the election provided the licensee is in compliance with the law and the rules adopted thereunder. The regulatory and licensing agency for the regulation of video draw poker operations, as authorized by R.S. 27:301 et seq., and for the regulation of riverboats upon which gaming may be conducted as authorized by R.S. 27:41 et seq., shall obtain the results of the election and shall not issue any licenses in parishes where a majority of the voters voting in the election have voted against continuance of gaming activities.

E. In any parish where a land-based casino has been authorized by state law, the election provided for in this Section shall also allow the voters of the parish to vote on the conducting of land-based casino gaming operations in the parish. If the voters vote not to allow the

conducting of land-based casino gaming operations in the parish, then the licensing and regulatory agency for the conducting of land-based casino gaming operations shall obtain the results of the elections and no license shall be issued and no such gaming operations shall be permitted in the parish. The operation of land-based casino gaming previously existing in the parish shall be discontinued.

F. The provisions of this Section shall not be construed to be an authorization or expansion of any type of gaming or gambling activity. If a majority of the electors voting in the election vote in favor of gaming activity and one or more forms of such gaming were not authorized by law and conducted within the parish, such a vote shall not be interpreted to authorize that gaming activity to be conducted within the parish without a subsequent Act of the legislature which would authorize or permit that type of gambling activity or operation within the parish.

G. Notwithstanding any other provision of law to the contrary, no gaming operations are to be conducted upon a riverboat berthed or docked at a facility on that portion of Lake Pontchartrain or any waterway connected thereto from the Kenner/Metairie border in Jefferson Parish to the Industrial Canal in Orleans Parish.

H. Notwithstanding any provision of law to the contrary, no more than one riverboat upon which gaming activities are conducted shall be berthed or docked on that portion of Lake Pontchartrain within the city of Kenner. Additionally, no riverboat upon which gaming activities are conducted shall be berthed or docked in the unincorporated portion of Jefferson Parish contiguous to Lake Pontchartrain.

I. Notwithstanding any provision of law to the contrary, no riverboat gaming activities shall be conducted upon a riverboat berthed or docked at a facility on that portion of Lake Pontchartrain or any waterway connected thereto located within St. Tammany Parish.

J. Except as otherwise provided in this Section, the election required in this Section shall be conducted as provided in Chapter 6-B of this Title. [FN1]

K. The costs of the election required in this Section shall be borne by the state.

L. Notwithstanding any provision of law to the contrary, no licensee shall berth a riverboat in any parish in which an election was not held pursuant to this Section or in such parish in which such election was held but in which election authority was denied without a favorable vote of the electorate in the parish in which a berth is being sought as provided in this Section.

M. Notwithstanding any provision of law to the contrary, in parishes where riverboats are authorized to conduct gaming activities and a majority of the electors vote not to allow such gaming activities, then the license or permit shall not be reissued nor transferred to another authorized berth in any parish other than in a parish in which a riverboat upon which gaming is conducted is berthed.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1996, 1st Ex.Sess., No. 57, § 1, eff. May 9, 1996.

[FN1] R.S. 18:1299 et seq.

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 57, §§ 2 to 4 (§ 1 of which enacted this section) provide:

"Section 2. Should any law authorizing a form of gaming or gambling activity provided for in this Act be repealed by another Act of the legislature, such repeal shall not invalidate or supersede this Act, but references to the gaming or gambling activity repealed by an Act of the legislature shall be removed from the propositions presented to the electors as provided for in this Act.

"Section 3. If and when an amendment to the Constitution of Louisiana which by the terms therein prohibits all forms of gambling, gaming, or wagering to which this bill applies is adopted and becomes effective, the provisions of this Act shall cease to have effect.

"Section 4. Upon a determination by a court of competent jurisdiction declaring invalid or unconstitutional any of the statutory provisions of Section 1 of this Act, including particularly R.S. 18:1300.21(G), (H), and (I), then those provisions shall be considered void and without effect so as to eliminate any such defect and to preserve the results of the election provided for by this Act as determined by the voters of this state."

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as enacted in 1996, "May 9, 1996" was substituted for "the effective date of this Section" following "prior to" in par. A(3) and the third sentence of subsec. D; in par. B(2), references to 27:43 and 27:203 were substituted for references to 4:503 and 4:603, respectively; and in subsec. D, references to 27:301 and 27:41 were substituted for references to 33:4862.1 and 4:501, respectively.

Title of Act:

An Act to enact Chapter 6-D of Title 18 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 18:1300.21, relative to local elections to prohibit or allow certain gaming activities; to provide that gaming activities will discontinue unless approved at local elections; to provide relative to the calling and conducting of such elections; to provide limitations on the conduct of gaming aboard riverboats in certain areas; to provide relative to the effectiveness of the results of such elections; to provide for applicability; to provide conditions for relocation of riverboats to alternate berthing

facility; and to provide for related matters. Acts 1996, 1st Ex.Sess., No. 57.

NOTES OF DECISIONS

Discontinuance of gaming 1

1. Discontinuance of gaming

Only the operation of video draw poker devices authorized pursuant to the provisions of La.R.S. 27:301 et seq. are to be discontinued as a result of the Nov. 6, 1996 election in East Baton Rouge Parish in accordance with La.R.S. 18:1300.21, not the gaming operations conducted on licensed riverboats in East Baton Rouge Parish. Op.Atty.Gen. No. 97-14, Jan. 14, 1997.

LSA-R.S. 18:1300.21

LA R.S. 18:1300.21

END OF DOCUMENT

LA R.S. 40:1485.11

LSA-R.S. 40:1485.11

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 40. PUBLIC HEALTH AND SAFETY  
CHAPTER 6. DEPARTMENT OF PUBLIC SAFETY  
PART VIII. REGULATION OF CHARITABLE GAMING

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 1485.11. Toll-free telephone assistance for compulsive gamblers;  
posting of signs on premises

The division shall require the posting of one or more signs on licensed premises at points of entry into the areas where organizations licensed under this Part are conducting games of chance authorized under the provisions of R.S. 33:4861.4(A)(2), (3), and (4), 4861.26, and 4861.27 to inform patrons of a toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling. Failure by the owner of the licensed premises to post and maintain such a sign or signs shall be cause for the imposition of a fine not to exceed one thousand dollars per day.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1997, No. 1192, § 4.

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

This section, enacted by Acts 1997, No. 1192, § 4, as R.S. 40:1485.10, was redesignated as R.S. 40:1485.11, pursuant to the statutory revision authority of the Louisiana State Law Institute.

#### CROSS REFERENCES

Toll-free telephone assistance for compulsive gamblers, posting of signs on premises,  
Horse racing, see R.S. 4:149.4.  
Lottery retailers, see R.S. 47:9058.  
Offtrack wagering, see R.S. 4:216.1.

LSA-R.S. 40:1485.11

LA R.S. 40:1485.11

END OF DOCUMENT

LA R.S. 27:301

LSA-R.S. 27:301

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 6. VIDEO DRAW POKER DEVICES

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

#### § 301. Short title and definitions

A. This Chapter shall be known and may be cited as the "Video Draw Poker Devices Control Law".

B. As used in this Chapter, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:

(1) "Certified technicians level ones" means qualified service personnel trained by a manufacturer, distributor, or other qualified entity, or in a training program approved by the division, who are capable of clearing paper or money jams, changing paper contained within the video draw poker devices, or retrieving money from video draw poker devices.

(2) "Certified technicians level two" means qualified service personnel trained by a manufacturer, distributor, or other qualified entity, or in a training program approved by the division, who are capable of clearing paper or money jams, changing paper contained within the video draw poker devices, or retrieving money from video draw poker devices, performing any repairs, parts replacements, maintenance, cleaning, and other matters related to servicing of video draw poker devices.

(3) "Device operation" means the privilege of operating a video draw poker device in accordance with the provisions of this Chapter.

(4) "Device owner" means a person other than a distributor, who owns and operates, maintains, repairs, or services one or more video draw poker devices in licensed establishments.

(5) "Distributor" means any person who buys, sells, leases, services, or repairs video draw poker devices and provides a facility for the inspection of those devices as required by the division.

(6) "Division" means the video gaming division of the gaming enforcement section of the office of state police within the Department of Public Safety and Corrections.

(7) "Hotel" or "motel" means an operating commercial establishment which possesses all appropriate licensing as a hotel or motel and which is engaged primarily in the renting of rooms, generally at a daily rate basis, which provides overnight lodging to the general public.

(8) "Licensed establishment" means an establishment that has a Class A-- General retail permit or a Class A--Restaurant permit as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, for the sale of alcoholic beverages for on-premises consumption or a Louisiana state racing commission licensed race track, pari- mutuel wagering facility, or offtrack wagering facility, or a qualified truck stop facility as defined in R.S. 27:306. Licensed establishment shall not include any premises leased to or utilized by a bona fide nonprofit organization for the conducting of charitable gaming nor any convenience store, quick-stop, food-mart, service station, grocery store, barber shop, laundromat/washateria, package or discount liquor/cigarette establishment, movie theater, or beauty shop.

(9) "Manufacturer" means any person who manufactures or assembles and programs video draw poker devices for use in this state.

(10) "Net device revenue" means the gross revenue of a device less the value of prizes paid as shown on the meters of the device.

(11) "Person" means any individual, partnership, corporation, or other legal entity.

(12) "Restaurant" means an operating establishment primarily engaged in the retail sale of prepared foods for on-premises or immediate consumption that meets all of the following criteria:

(a) Has been granted a Class A--General retail permit or a Class A--Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, for the sale of alcoholic beverages for on-premises consumption.

(b) Serves food during the hours it is open to the public.

(c) Derives at least sixty percent of its monthly gross revenues from the sale of food, food items, and nonalcoholic beverages.

(d) Maintains financial records that segregate alcoholic beverage sales from food sales.

(e) Operates a fully equipped kitchen which includes but is not limited to a range, an oven, and refrigerated storage appliances used for the preparation of uncooked foods for on-premises or immediate consumption.

(13) "Service entity" means any person other than a distributor or device owner who repairs, services, inspects, or examines video draw poker devices.

(14) "Suitability", "suitable", or "suitability requirements" means the criteria provided for in R.S. 27:310.

(15) "Video draw poker device" means any unit, mechanism, or device authorized pursuant to the provisions of this Chapter, that, upon insertion of cash, is available to play or simulate the play of the game of draw poker or other card games approved by the division, utilizing a cathode ray tube or video display screen and microprocessors in which the player may win games or credits that can be redeemed for cash only. The term does not include a device that directly dispenses coins, cash, tokens, or anything else of value, except the ticket voucher required in accordance with the provisions of this Chapter. The term does not include any device authorized to be used in the conducting of charitable gaming.

C. Notwithstanding any provision of law to the contrary, the placement, operation, maintenance, and play of approved video draw poker devices in accordance with the provisions of this Section is legal and such devices shall not be considered gambling devices.

D. Any license applied for, granted, or issued under the provisions of this Chapter is a pure and absolute privilege, the awarding, denial, or withdrawal of which is solely within the discretion of the division and, except as provided in this Chapter, without recourse at law. Any license issued or renewed under the provisions of this Chapter is not property or a protected interest under the constitutions of either the United States or the state of Louisiana.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1991, No. 1062, § 1.

Acts 1994, 3rd Ex.Sess., No. 13, § 1.

R.S. 33:4862.1.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, the defining terms in subsec. B of R.S. 33:4862.1 as amended in 1994 were renumbered in alphabetical order.

Pursuant to the same authority, in subsec. B, in pars. (1) and (2), "technicians" was substituted for "technician" following "Certified"; in par. (8) as redesignated, "Class A--General retail permit or a Class A--Restaurant permit" was substituted for "Class A general retail permit or a Class A restaurant permit" in the first sentence and the final sentence was redesignated as par. D(2) of R.S. 33:4862.2 (now R.S. 27:302); and in par. (12) as redesignated, "Class A--General retail permit or a Class A-- Restaurant permit" was substituted for "Class A general retail permit or a Class A restaurant permit" in subpar. (a).

Acts 1995, No. 1188 abolishes the office of alcoholic beverage control, Department of Public Safety and Corrections, and transfers its functions to the office of alcoholic beverage control, Department of Revenue and Taxation". Section 6 of the Act provides:

"Section 6. The provisions of this Act shall in no way diminish or supersede the authority of the office of state police to regulate video poker as set forth in Act No. 1062 of the 1991 Regular Session of the Legislature and Act No. 13 of the 1994 Third Extraordinary Session of the Legislature."

See note preceding this section relating to enactment of Louisiana Gaming Control Law.

R.S. 33:4862.1 was redesignated as R.S. 27:301 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute. Pursuant to the same authority, changes in internal citations were made, and "Part" was changed to "Chapter" throughout, also in 1996.

Acts 1991, No. 1062 (§ 1 of which enacted Part V-B of Chapter 14 of Title 33, now this Part) provided in § 3:

"A. No device authorized pursuant to the provisions of this Act shall be placed in play or operation in or on any licensed premises prior to January 1, 1992, or until the devices of at least three different licensed manufacturers have been approved by the division, whichever is later.

"B. The division shall promulgate necessary and reasonable rules and regulations according to the provisions of this Act on or before November 15, 1991."

Title of Act:

An Act to enact R.S. 26:91(9) and 287(11) and Part V-B of Chapter 14 of Title 33 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 33:4862.1 through 4862.19, relative to video draw poker devices; to authorize and provide with respect to ownership, distribution, inspection, and licensing; to provide for fees, franchise payments, permits, revenues, winnings, and regulation

thereof; to create the Video Draw Poker Device Fund; to provide for the levy of occupational license taxes by local governing authorities; to provide for distribution of net device revenue; to provide for criminal penalties; to provide for violations by and licensing sanctions against alcoholic beverage retail permittees; and to provide for related matters. Acts 1991, No. 1062.

#### CROSS REFERENCES

Gambling, legislative power to define and suppress, see Const. Art. 12, § 6.

Unlawful play of video draw poker devices by persons under the age of twenty- one, penalty, see R.S. 14:90.4.

#### LIBRARY REFERENCES

1999 Electronic Pocket Part Update

Words and Phrases (Perm. Ed.)

#### NOTES OF DECISIONS

Use of device for amusement purposes 2  
Validity 1

##### 1. Validity

Statutes authorizing licensing of gaming operations did not violate constitutional mandate to suppress gambling; legislature was entitled to define gambling and to exempt from that definition certain forms of gambling not prohibited by Constitution. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations did not unconstitutionally delegate legislative authority to executive branch of government. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations, which restricted collection of local taxes, did not unconstitutionally abrogate taxing powers granted to city of New Orleans pursuant to its home rule charter; gaming statutes were enacted pursuant to valid exercise of state's police power, and legislature was constitutionally empowered by general law to deny or revoke delegation of function or power to home rule government when necessary to prevent abridgment of state's police power. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations were not unconstitutional "local" or "special" laws, even though their immediate application was limited as to parties and localities; issue was matter of state-wide concern, and legislature was entitled to determine that single facility or type of facility within state was in state's best interest. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

##### 2. Use of device for amusement purposes

Video poker game used for amusement purposes only is illegal under LSA-R.S. 33:4862.1 if it has not been inspected and authorized in accordance with law and is subject to confiscation. Op. Atty. Gen., No. 91-569, Nov. 12, 1991.

LSA-R.S. 27:301

LA R.S. 27:301

END OF DOCUMENT

LA R.S. 27:306

LSA-R.S. 27:306

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 6. VIDEO DRAW POKER DEVICES

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 306. State license qualifications; limitations; right to hearing

A. (1) The legislature hereby recognizes the importance of a controlled gaming industry to the development of the economy of the state of Louisiana. The legislature further recognizes that the success and growth of gaming are dependent upon public confidence and trust that gaming activities and particularly video draw poker gaming activities are conducted honestly and are free from criminal and corruptive elements. The state of Louisiana has a legitimate interest in providing strict regulation of all persons, practices, associations, and activities related to the operation of licensed establishments licensed to offer video draw poker devices, and the manufacture, supply, or distribution of video draw poker gaming devices and supplies, in order to maintain public confidence and trust in the video draw poker gaming industry. The legislature hereby finds that the types of establishments which may place video draw poker devices at their licensed establishments each possess unique features, some of which are volume of business, number of establishments, and hours required of the division to insure suitability prior to licensing. Therefore, in order to provide the most effective regulation and control of the video draw poker gaming industry, it is necessary to develop three categories of licenses which may be issued to qualified establishments for the privilege of operating video draw poker devices.

(2) A person who has been granted a Class A--General retail permit or a Class A--Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to sell alcoholic beverages for consumption on the premises of a restaurant, bar, tavern, cocktail lounge, club only, or such an establishment located within a motel or hotel only may be granted a license for the placement of not more than three video draw poker devices in his licensed establishment. A licensee owning or leasing a licensed establishment which is a hotel or motel which has more than one lounge or facility and which has a Class A--General retail permit

or a Class A--Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to sell alcoholic beverages for on-premises consumption on a single licensed premises may make available for play not more than three video draw poker devices at each lounge or separate facility, not to exceed a total of twelve video draw poker devices for the hotel or motel, if all other requirements of this Chapter are met. Any hotel or motel which, on July 1, 1994, has more than twelve video draw poker devices shall have ninety days from October 1, 1994, to reduce the number of devices by at least three devices and thereafter shall continue reduction at the rate of at least three devices a quarter until in compliance with this Paragraph. Under no circumstances shall full compliance occur later than January 1, 1996. Each separate lounge or facility shall meet the following criteria:

(a) It must be a physically separate noncontiguous facility.

(b) It must have separate and independent beverage preparation areas.

(c) It must prepare, dispense, and sell alcoholic beverages for on-premises consumption.

(d) It must have a person whose primary duty is tending bar on duty while the lounge or facility is open for business and has a permanently affixed wet bar facility including plumbing and sinks.

(e) It must be able to accommodate a minimum of twenty-five patrons.

(3) A person owning a Louisiana State Racing Commission licensed pari-mutuel wagering facility or an offtrack wagering facility may be granted a license for the placement of video draw poker devices in his facility if all other requirements of this Chapter are met. There shall be no limit on the number of video draw poker devices which may be placed at the facility.

(4)(a) A person owning a qualified truck stop facility may be granted a license for the placement of not more than fifty video draw poker devices in his facility based on the fuel sales as provided in Subparagraph (b) of this Paragraph, in an area separated for adult patronage only, if all other requirements of this Chapter are met. There shall be only one license granted for the operation of video draw poker devices at each qualified truck stop facility.

(b) The number of video draw poker devices placed at a qualified truck stop facility shall be based on the average monthly fuel sales as follows:

(i) One hundred thousand gallons of fuel of which forty thousand gallons are diesel--not more than fifty devices.

(ii) Seventy-five thousand gallons of fuel of which thirty thousand gallons are diesel--not more than forty devices.

(iii) Fifty thousand gallons of fuel of which ten thousand are diesel--not more than thirty-five devices.

(c) As used in this Section a qualified truck stop facility shall mean a facility covering at least five developed contiguous acres which sells fuel, lubricating oil, and other vehicular merchandise, such as batteries, tires, or vehicle parts for eighteen-wheel tractor-trailers, and which also meets all of the following criteria:

(i) It must be located adjacent to a major state or interstate highway, as defined by the division through rules and regulations adopted by the division for this purpose, subject to legislative oversight.

(ii) It must have an on-site restaurant with all of the following features:

(aa) Provides seating for at least fifty patrons.

(bb) Provides full table service for sit-down meals.

(cc) Is open twenty-four hours a day.

(dd) Offers a varied menu.

(iii) It must have parking areas with each of the following:

(aa) A stable parking area for at least fifty eighteen-wheel tractor-trailer motor vehicles, either paved or concrete, to support eighteen-wheel tractor-trailer motor vehicles and their loads, constructed according to industry specifications, subject to approval by the division. All other parking areas not paved or concrete must be certified by an authorized company and proof provided that compaction tests were conducted, subject to approval by the division.

(bb) Parking of sufficient size is allowed for safe ingress and egress.

(cc) Parking areas for other vehicles around business entrance ways and exits shall not constitute parking areas for eighteen-wheel tractor-trailer motor vehicles.

(iv) It must have diesel and gasoline fuel facilities. The fuel facility shall offer, in the regular course of business and consistent with the requirements of Subpart E of Part VIII of Chapter 1 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:421 through 427, and the requirements of Chapter 13 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:1401 through 1419, fuel sales for individual vehicle consumption. Bulk sales or transfers shall not be used to calculate monthly averages. All fuel sales must correspond to state-accepted daily sales reports which correspond to monthly state sales tax reports and shall be verified by fuel tickets from the truck stop facility.

(v) It must have on-site repair service facilities for eighteen-wheel tractor-trailer motor vehicles. The on-site repair service may be in the form of contracted services from a business which regularly offers this type of service. A copy of any contractual agreement shall be submitted for approval to the division for review and processing.

(vi) It must have at least four of the following amenities:

(aa) A separate truckers' television lounge.

(bb) A full-service laundry facility located in a convenient area for truckers' use.

(cc) Private showers for men and women and not located in an area open to general public restroom facilities.

(dd) A travel store with items commonly referred to as truckers' supplies (items commonly used only by commercial motor vehicles).

(ee) Truck scales.

(ff) Separate truckers' telephones.

(gg) Permanent storage facilities for fuel.

(vii) It must have an area separated for adult patronage only.

(5)(a) The qualified truck stop facility shall be owned or leased by a person who meets all the personal qualifications for a Class A--General retail permit or a Class A--Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to serve or sell alcoholic beverages for on-premises consumption. However, when no such permit is obtainable or available, no such permit shall be required.

(b) An owner or lessor of a qualified truck stop facility may lease or sublease any restaurant or convenience store located on the premise of the qualified truck stop facility to another person, provided that such person executes a written lease which contains a requirement that the lessee or sublessee comply with the laws and regulations which govern the operation of video draw poker devices. If such lease or sublease is granted, the owner or lessor of such qualified truck stop facility shall maintain ultimate supervision and control of his entire truck stop premises. No such lessee or sublessee shall be required to meet suitability requirements unless he receives, as a result of the lease, any video draw poker device operation revenue or unless he exercises some management or control over video draw poker devices. Any violation of the laws and regulations which govern the operation of video draw poker devices by such lessee or sublessee shall be considered a violation by the licensee.

(c) Any licensee who has leased or subleased a restaurant or convenience store prior to August 15, 1997, which lease does not meet the requirements provided in Subparagraph (b) of this Paragraph shall have until June 30, 1998 to comply with such provisions.

(d) After June 30, 1998, no licensee of a qualified truck stop facility may have the fuel facility portion of the qualified truck stop facility under a lease or sublease.

(6)(a) Any person issued a truck stop facility license prior to July 1, 1994, shall be permitted to qualify for truck stop facility licenses pursuant to the laws and regulations in existence prior to July 1,

1994, provided that such license is issued to and remains with the person who applied prior to July 1, 1994. The provisions of this Paragraph shall not apply if the license for a truck stop facility which was issued to a person who made application prior to July 1, 1994, is transferred, withdrawn, denied, not renewed, or otherwise is no longer in the possession of the original applicant, except that if such license was issued to an individual who was in possession of such license in good standing at the time of his death, such license shall be continued as to heirs or legatees to the qualified truck stop if the heirs or legatees are related by blood or are descendants by adoption or the deceased's spouse and are found suitable by the division. All applicants who apply for renewals of truck stop licenses on or after July 1, 1995, shall meet the requirements as pertaining to fuel sales of this Chapter and all regulations adopted pursuant thereto. Any person issued a truck stop facility license prior to July 1, 1994, shall have until January 1, 1996, to meet all other requirements provided by this Chapter and all regulations adopted pursuant thereto. However, in no event may any licensee who has a monthly total fuel sales of less than twenty-five thousand gallons for the calendar month of October, 1994, and each month thereafter, operate any video draw poker devices. In order to provide for the requirements of this Paragraph, the division may issue conditional licenses which shall expire January 1, 1996, may issue regular licenses which extend until the next regular expiration date for regular licenses, and may collect a license fee for such conditional and regular licenses of less than a year's duration which fee represents a pro rata share of the annual license fee based on the duration in months of the license issued.

(b)(i) Any person issued a truck stop facility license under the provisions of this Paragraph whose facility as of July 1, 1994, is not in compliance with the requirements of the law as it exists on July 1, 1994, shall, not later than one hundred twenty days after July 1, 1994, submit to the division a plan and schedule for bringing his facility into full compliance by no later than January 1, 1996.

(ii) The division shall within thirty days review the plan and schedule. If the division finds the plan and schedule inadequate, or if the division finds that a licensee is failing to comply with his approved plan and schedule, the division shall order the licensee to appear at a hearing which the applicant shall show just cause for failure. Such hearing shall be held not less than ten days nor more than thirty days from notice to the applicant. If just cause for such failure is found, the division may order the licensee to submit a revised schedule. If no just cause for such failure is found the division may, within its discretion, suspend or revoke the truck stop facility's license.

(7)(a) Any person not issued a truck stop facility license prior to July 1, 1994, before being eligible to receive a license, must meet all requirements provided by this Part and must have fuel sales reports and verifiable fuel tickets which indicate average fuel sales of sufficient gallons, as required by this Chapter, for the ninety days immediately prior to licensing.

(b) Any person who has made application for a truck stop facility prior to May 15, 1994, and who has entered into a written contract for construction of a new facility, has site work complete, has exterior

walls and roof complete, has the building shell sealed to the exterior, has door and windows installed and complete, and has heating and air conditioning, plumbing, and electrical systems in operation by July 1, 1994, or who has entered into a reconstruction of an existing structure in which over one hundred thousand dollars, exclusive of purchase price, has been expended for actual renovation or repairs by July 1, 1994, and whose application has not completely been processed by the division as a result of delays in processing caused by the prohibition on the expenditure of monies for the purposes of any activity related to the processing or issuance of any new license for video poker devices at truck stops contained in Act No. 4 and in Act No. 15 of the 1994 Regular Session of the Louisiana Legislature shall not be required to have fuel sales reports or verifiable fuel tickets to complete their application nor shall such person be required to meet the requirement for the sales of a minimum number of gallons of fuel otherwise required by this Part until January 1, 1996, provided the division issues such person a license no later than September 1, 1994. However, all requirements other than such minimum fuel sales shall be required for issuance of a license. Further, such a person, if licensed, shall meet the same requirements as provided in Paragraph (6) of this Subsection or within one hundred twenty days of licensure.

B. Each applicant for a license shall on the application form disclose to the division any present or previous experience or involvement as an owner or operator of gambling devices and establishments as defined by the division. Present or previous experience or involvement includes:

- (1) Controlling of gambling devices as an owner or operator.
- (2) Employment with the owner or operator of gambling devices.
- (3) Employment in establishments where gambling is offered to the public.
- (4) Conviction of violation of federal, state, or local gambling laws in any jurisdiction.

C. (1) A licensee may not have on the premises or make available for play on the premises of his licensed establishment more video draw poker devices than as provided in Subsection A of this Section.

(2)(a) Notwithstanding any provision of law to the contrary, no license shall be granted to any truck stop facility located within five hundred feet of any property that is on the National Historic Registry, any public playground, or a building used exclusively as a church, synagogue, public library, or school.

(b) In municipalities and in unincorporated areas which are divided into subdivisions with streets, blocks, and sidewalks, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the property on the National Historic Registry, public playground, church, synagogue, public library, or school to the nearest point of the premises to be licensed.

(c) Outside of municipalities and unincorporated areas which are not divided into subdivisions with streets, blocks, or sidewalks, the measurement of this distance shall be a straight line from the nearest

point of the truck stop facility to the nearest point of the church, synagogue, or school.

(3) The prohibitions in Paragraph (2) of this Subsection do not apply to any truck stop licensed for the placement of video draw poker devices for a period of one year or longer prior to July 1, 1994. The subsequent construction, erection, development, or movement of a property on the National Historic Registry, public playground, church, synagogue, public library, or school which causes the truck stop facility to be located within the prohibited distance shall not be cause for revocation, withholding, denial, or nonrenewal of a license.

D. (1) If the lease of a truck stop facility, which is a licensed establishment for the operation of video draw poker devices, expires or is terminated without legal cause by the lessor, then, in either event, neither the lessor nor a new lessee shall have the right to apply for a video draw poker device license at the same truck stop location for a period of six years from the date of expiration or termination of the lease.

(2) The former lessee/licensee shall have any of the following rights:

(a) To continue operations at the licensed facility by agreement with the lessor or the new lessee.

(b) To transfer the existing license to any other new or existing truck stop facility which meets all of the qualifying requirements contained in this Chapter, except:

(i) That such former lessee/licensee shall not be required to wait before making application and commencing video draw poker operation at a new or existing facility.

(ii) That such former lessee/licensee shall be required to perform at the new facility any existing sublease or other contracts with licensed device owners/operators in effect at the time of expiration or termination of the lease.

(3) Nothing herein shall affect or apply to any truck stop facility in which the lessor is the holder of the license for the operation of video poker devices.

E. (1) When a licensed establishment which requires an alcoholic beverage license as a condition of the receipt of a video draw poker device license is sold, the video gaming devices shall be allowed to continue to operate if the new owner applies for a state Class "A" license within five days of purchasing the business, and upon issuance of a state Class "A" license, the new owner applies for a video draw poker license within five days.

(2) The video draw poker devices shall be allowed to be continued in operation under the old license until denial of the new license application, issuance of a video draw poker license in the name of the owner, or sixty days, whichever comes first.

(3) The division shall adopt and promulgate rules to implement this Subsection.

F. (1) Each applicant for a license or renewal of a license shall provide to the division in addition to the application form a signed sales tax clearance from the secretary of the Department of Revenue, which clearance request shall be processed within seven business days.

(2) No license shall be granted to any applicant unless he has submitted proof to the division, as required by Paragraph (1) of this Subsection, that he does not owe the state or local governing authority of the parish or municipality in which the establishment is located any delinquent sales taxes, penalties, or interest, excluding items under formal appeal or protest as provided by law.

G. When an applicant for a license files its application with the division, the applicant shall send notice with a copy of the application to the local governing authority and submit evidence of the notification to the division.

H. (1) Prior to the expiration of the license term, a licensee who is licensed under the provisions of this Chapter for the placement of not more than three video draw poker devices in an approved, qualified establishment shall apply for renewal of the license by completing an affidavit in a form approved by the Louisiana Gaming Control Board that certifies that there have been no changes in the prior qualification and suitability information previously furnished to the board. This affidavit shall be executed by the licensee and each person required to meet qualification and suitability requirements under R.S. 27:310, provided that the licensee or person previously submitted all information required by the board in its initial suitability determination. Notwithstanding the above, the licensee and all persons required to meet suitability shall furnish such releases, affidavits, and documents as may be required by the board. Additionally, the licensee shall furnish with each renewal application all of the following:

(a) A current local sales tax clearance certificate.

(b) A current local governing authority and taxing authority notification.

(c) A current state sales tax clearance certificate.

(d) A Class A-General retail permit or a Class A-Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to sell alcoholic beverages for consumption on the premises.

(2) Failure to disclose changes in prior qualification and suitability information shall result in denial of the renewal application or revocation of the video draw poker gaming license.

(3)(a) It shall be unlawful for any person intentionally to submit a false affidavit under this Subsection or to make or cause to be made or aid, assist, or procure another to make or submit a false affidavit.

(b) Whoever is convicted of violating the provisions of this Subsection shall be imprisoned, with or without hard labor, for not

more than ten years or be fined not more than ten thousand dollars, or both.

(4) The provisions of this Subsection shall not apply to, and affidavits shall not be used for renewal of, a license for the operation of video draw poker devices at a hotel or motel, a Louisiana State Racing Commission licensed pari-mutuel wagering facility, an offtrack wagering facility, or a qualified truck stop facility.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996. Amended by Acts 1997, No. 68, § 1; Acts 1997, No. 1285, § 1, eff. July 15, 1997.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1991, No. 1062, § 1.  
Acts 1993, No. 593, § 1.  
Acts 1994, 3rd Ex.Sess., No. 13, § 1.  
Acts 1995, No. 1052, § 1.  
Acts 1995, No. 1280, § 1.  
R.S. 33:4862.6.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, "in that event" in par. D(1) of R.S. 33:4862.6 as enacted was changed to "in either event".

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in R.S. 33:4862.6 as amended in 1994, in subsec. A, "Class A-- General retail permit or a Class A--Restaurant permit" was substituted for "Class A general retail permit or a Class A restaurant permit" in two instances; in subpar. (4)(c), "qualified truck stop facility" was placed in quotation marks; in par. (5), "Class--A General retail permit or a Class--A Restaurant permit" was substituted for "Class A general retail permit or Class A restaurant permit"; and in par. C(2), subpars. (a) to (c) were designated.

House Concurrent Resolution No. 47 of the 1994 Regular Session urges and requests the state police video gaming enforcement division to immediately cease and desist from issuance of any additional licenses which authorize placement of video draw poker devices at convenience stores.

R.S. 33:4862.6 was redesignated as R.S. 27:306 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute. Pursuant to the same authority, "Part" was changed to "Chapter" throughout, also in 1996.

In 1997 pursuant to the statutory revision authority of the Louisiana State Law Institute, in subpar. A(5)(b), "poker" was substituted for "pocker" in the penultimate sentence.

In 1997, pursuant to Acts 1997, No. 658, § 2 and the statutory revision authority of the Louisiana State Law Institute, "Department of Revenue and Taxation" was changed to "Department of Revenue" in par. F(1).

#### NOTES OF DECISIONS

Construction and application 2

Fuel sales 4

State police 3

Validity 1

##### 1. Validity

Statutes authorizing licensing of gaming operations did not violate constitutional mandate to suppress gambling; legislature was entitled to define gambling and to exempt from that definition certain forms of gambling not prohibited by Constitution. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations did not unconstitutionally delegate legislative authority to executive branch of government. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations, which restricted collection of local taxes, did not unconstitutionally abrogate taxing powers granted to city of New Orleans pursuant to its home rule charter; gaming statutes were enacted pursuant to valid exercise of state's police power, and legislature was constitutionally empowered by general law to deny or revoke delegation of function or power to home rule government when necessary to prevent abridgment of state's police power. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations were not unconstitutional "local" or "special" laws, even though their immediate application was limited as to parties and localities; issue was matter of state-wide concern, and legislature was entitled to determine that single facility or type of facility within state was in state's best interest. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

##### 2. Construction and application

State police exceeded grant of legislative authority in adopting requirement that truck stop facility have at least two years' continuous operating business experience to qualify for video poker license, where legislature specifically defined truck stop for video poker purposes, and its definition did not impose two-year rule. *Bueto v. Video Gaming Div., Office of State Police, Dept. of Public Safety*, App. 1 Cir.1994, 94 0334 (La.App. 1 Cir. 3/4/94), 637 So.2d 544.

##### 3. State police

Monies appropriated to the office of State Police may be used for the processing and issuance of licenses for video poker devices at truck stops. Op.Atty.Gen., No. 94-343, July 6, 1994.

#### 4. Fuel sales

Sales of fuel at less than retail cost defined at La.R.S. 51:421 (F), which includes fuel sales at delivered fuel costs, constitute violations of both the Unfair Sales Law and the Unfair Trade Law. Op.Atty.Gen., No. 94-446, Sept. 20, 1994.

LSA-R.S. 27:306

LA R.S. 27:306

END OF DOCUMENT

LA R.S. 40:1485.5

LSA-R.S. 40:1485.5

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 40. PUBLIC HEALTH AND SAFETY  
CHAPTER 6. DEPARTMENT OF PUBLIC SAFETY  
PART VIII. REGULATION OF CHARITABLE GAMING

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

#### § 1485.5. Licensure

A. (1) Any organization or person seeking licensure as a charitable gaming organization, as a manufacturer or distributor of gaming supplies or equipment, or as a commercial lessor shall submit an application to the division on forms provided for such purposes. Such application shall contain such information as may be reasonably required by rules of the division. The application shall be accompanied by the fee established pursuant to R.S. 40:1485.4(2).

(2) The division shall investigate all applications for licensure and, in addition to the information required on the application, may require the applicant to furnish such additional information as it deems necessary.

B. The division shall not issue a license of any type to:

(1) Any person who has been convicted of certain related offenses as established by the division within the last five years or who presently has such a charge pending in any state or federal court.

(2) Any person who has ever been convicted of a gambling-related offense in any state or federal court.

(3) Any person who is or has ever been a professional gambler.

(4) Any firm, organization, or corporation in which any person specified in Paragraphs (1) through (3) of this Subsection is an officer or director, whether compensated or not, or in which such person has a direct or indirect financial interest.

C. The division may issue a license for a period not exceeding one year to applicants meeting the requirements of this Part, the Charitable Raffles, Bingo, and Keno Licensing Law, [FN1] and rules and regulations adopted pursuant to such laws.

D. (1) The division may deny an application for licensure, refuse to renew a license, or restrict, suspend, or revoke a license for any reason consistent with the purposes of this Part which it deems to be in the interest of the public. However, policies regarding such denial, suspension, revocation, restriction, or refusal to renew shall be established by rule and all procedures with regard to such actions shall be in accordance with the Administrative Procedure Act. [FN2]

(2) Notwithstanding any other provision of this Part to the contrary, the division shall not deny a license to or suspend, revoke, or refuse to renew the license of any organization defined in R.S. 33:4861.4(C) solely on the basis that such organization has not qualified with the Internal Revenue Service for an exemption from federal income tax as specified by R.S. 33:4861.2(1), provided that the organization demonstrates or establishes, by a preponderance of the evidence, that it is a legitimate nonprofit organization eligible under R.S. 33:4861.4 and is not otherwise eligible for tax-exempt status under Section 501(c)(3), (4), (7), (8), (10), or (19) of the Internal Revenue Code. [FN3]

E. Any significant change in the information submitted on its application for licensure shall be filed by a licensee with the division within ten days of the change. A significant change shall include but not be limited to any change in the officers, directors, managers, proprietors, or persons having a direct or indirect financial interest in any licensed organization or entity.

F. Any license, permit, approval, or thing obtained or issued pursuant to the provisions of this Chapter is expressly declared by the legislature to be a pure and absolute revocable privilege and not a right, property or otherwise, under the constitution of the United States or of the state of Louisiana. The legislature declares that no holder of any license or permit acquires any vested interest or right therein or thereunder.

CREDIT(S)

1992 Main Volume

Added by Acts 1986, No. 752, § 3, eff. July 8, 1986. Amended by Acts 1987, No. 526, § 2, eff. July 9, 1987; Acts 1990, No. 767, § 1; Acts 1991, No. 150, § 1.

1999 Electronic Pocket Part Update

Amended by Acts 1993, No. 991, § 1.

[FN1] R.S. 33:4861.1 et seq.

[FN2] R.S. 49:950 et seq.

[FN3] 26 U.S.C.A. § 501(c)(3), (4), (7), (8), (10) or (19).

#### HISTORICAL AND STATUTORY NOTES

##### 1999 Electronic Pocket Part Update

The 1993 amendment added subsec. F providing that charitable gaming licenses are absolutely revocable privileges.

In subsec. F as enacted in 1993, "the constitution of the United States or the state of Louisiana" was substituted for "the constitutions of the United States or the state of Louisiana".

##### 1992 Main Volume

The 1987 amendment, in subsec. D designated the existing paragraph as par. (1); and added par. (2) relating to the eligibility for licensing of organizations failing to qualify for an exemption from federal income tax.

The 1990 amendment, in par. A(1), substituted ", as" for "or", following "charitable gaming organization"; and inserted ", or as a commercial lessor", following "supplies or equipment".

The 1991 amendment, in par. D(1), inserted "restrict," following "renew a license, or", inserted a comma following "suspend", and inserted "restriction," following "revocation,".

#### CROSS REFERENCES

Penalties for false statements in license applications, see R.S. 33:4861.16.

#### NOTES OF DECISIONS

##### Suspension or revocation 1

###### 1. Suspension or revocation

An organization's filing for Chapter 11 bankruptcy [11 U.S.C.A. § 1101 et seq.] does not preclude the state from exercising its power to suspend or revoke the organization's license to gamble as a non-profit organization. Op.Atty.Gen., No. 87-663, Nov. 9, 1987.

LSA-R.S. 40:1485.5

LA R.S. 40:1485.5

#### END OF DOCUMENT

LA R.S. 27:361

LSA-R.S. 27:361

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 7. PARI-MUTUEL LIVE RACING FACILITY ECONOMIC REDEVELOPMENT AND  
GAMING CONTROL ACT  
PART II. CONDUCT OF SLOT MACHINE GAMING ACTIVITY  
SUBPART A. AUTHORIZED ACTIVITY AND REQUIRED ACTIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 361. Conduct of slot machine gaming; temporary conduct

A. Subject to the limitation in Subsection C of this Section, upon sworn application by the owner of an eligible facility and upon a finding by the board, after investigation, that the application is complete and the owner is suitable, the board shall issue a license to the owner to conduct slot machine gaming in an eligible facility. Once licensed, slot machine gaming may be conducted subject to the requirements of this Chapter and rules adopted pursuant to the authority granted in this Chapter.

B. As a condition of licensing and to maintain continued authority for the conduct of slot machine gaming at the licensed eligible facility, the owner of the licensed eligible facility shall:

(1) Maintain continuous suitability.

(2) Determine that all persons who participate in the conduct of slot machine gaming at his eligible facility who are required by this Section to be licensed have such a license. The board shall advise all licensed owners of eligible facilities whenever any person once licensed as required by R.S. 27:362 is no longer licensed. The licensed owner shall not be found unsuitable or otherwise penalized for failure to terminate the participation of any person who was licensed at the time of original participation if the board has not provided the notification required by this Paragraph.

(3) Permit unrestricted access and right of inspection by the board, any agent of the board, and the division to any portion of the premises of an eligible facility in which any activity relative to the conduct of slot machine gaming is conducted.

(4) Contribute to the support of pari-mutuel wagering facilities in the state at large and the horse breeding industry by paying annually from the annual net slot machine proceeds received from slot machine gaming operations at the licensed eligible facility as provided in this Paragraph.

(a) The licensed eligible facility shall pay a fixed percentage of fifteen percent of the annual net slot machine proceeds received from slot machine gaming operations at the licensed eligible facility to supplement purses as follows:

(i) Seventy percent to supplement purses for thoroughbred races at that facility, thirty percent of which shall be for Louisiana-bred

thoroughbred horses. Four percent of this amount shall go to the Horsemen's Benevolent and Protective Association in accordance with law.

(ii) Thirty percent to supplement purses for quarter horse races at that facility, sixty percent of which shall be for Louisiana-bred quarter horses. Four percent of this amount shall go to the Horsemen's Benevolent and Protective Association in accordance with law.

(b) The licensed eligible facility shall pay annually a fixed percentage of two percent of the annual net slot machine proceeds received from slot machine gaming operations at the licensed eligible facility to the Executive Committee of the Louisiana Thoroughbred Breeders' Association. The Executive Committee shall distribute such amount according to a schedule or formula and within a time period which shall be established by the committee for special breeder awards to the breeders of accredited Louisiana-bred horses.

(c) The licensed eligible facility shall pay annually a fixed percentage of one percent of the annual net slot machine proceeds received from slot machine gaming operations at the licensed eligible facility to the Executive Committee of the Louisiana Quarter Horse Breeders' Association. The Executive Committee shall distribute such amount according to a schedule or formula and within a time period which shall be established by the committee for special breeders' awards to the breeders of accredited Louisiana-bred quarter horses.

C. An application may be approved by the board only after the electorate in the parish in which the eligible facility is located or, is proposed to be located, as provided for in Subsection D of this Section, has approved the conduct of slot machine gaming at such facility at an election, as provided in Part III of this Chapter.

D. The owner of a pari-mutuel live horse racing facility which has been licensed by the Louisiana State Racing Commission to conduct live race meetings, as provided in Part I of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, although the facility necessary to conduct live race meetings has not been completed and live racing has not begun to be conducted may be licensed as provided in Subsections A through C of this Section and may conduct slot machine gaming under such license in a designated slot machine gaming area approved by the board, provided that the facility for the conduct of a live race meeting be constructed and a schedule of live race meetings be established no later than twenty-four months following the receipt of a license to conduct slot machine gaming. All authority to conduct slot machine gaming shall cease if at the end of twenty-four months the requirements of this Subsection are not met.

E. (1) The license provided for in this Section shall be issued for a period of five years and shall be renewed for succeeding five-year periods upon application for such renewal, provided such application includes all revisions to the information in the original application which are necessary to maintain such information as both accurate and current and provided the board continues in its finding of suitability.

(2)(a) The license provided for in this Section shall not be transferrable.

(b)(i) The board shall provide by rule for establishing when a change in the interests in a licensed owner constitutes a change of ownership of sufficient significance that continuing the license would violate the provisions of this Paragraph.

(ii) The board shall provide by rule for an opportunity for a proposed buyer of an eligible facility to undergo the same processing and investigation by the board that would be conducted regarding an applicant for licensing to conduct slot machine gaming as an owner of an eligible facility in advance of the proposed buyer's concluding the purchase. In such a case, the board shall determine and inform the proposed buyer of whether or not based on the processing and investigation the proposed buyer would be licensed to conduct slot machine gaming as the owner of the facility should he apply for such a license. The advance process and investigation provided for in this Item shall not replace the application of the owner of an eligible facility to conduct slot machine gaming in such facility; however, additional processing and investigation shall be required only to supplement the prior processing and investigation in order that all matters related to such an application be complete and current.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1997, No. 721, § 1, eff. July 9, 1997. Amended by Acts 1998, 1st Ex.Sess., No. 142, § 1, eff. May 5, 1998.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

For date effective information, see italic note preceding R.S. 27:351.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as added in 1997, subsection, paragraph, subparagraph, item, and subitem designations were changed; in subsec. A, "Subsection C of this Section" was substituted for "Paragraph (2) of this Subsection"; in par. B(4), "pari-mutuel" was substituted for "pari-mutual" preceding "wagering"; in subsec. C, "Subsection D of this Section" was substituted for "Subsection B of this Section"; in subsec. D, "Subsections A through C of this Section" was substituted for "Subsection A of this Section"; and in item E(2)(b)(ii), "Item" was substituted for "Subsubparagraph" in the third sentence.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as enacted in 1997, in subsec. C, "has approved" was substituted for "had approved"; in subsec. D, a comma was inserted after "board" towards the end of the first sentence; in par. E(1), a hyphen was inserted in "five year"; in item E(2)(b)(i), "constitutes" was substituted for "constitute"; and in item E(b)(ii), in the first sentence, "proposed buyer" was changed to "proposed buyer's".

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended in 1998, "Paragraph" was substituted for "Subsection" at the end of the introductory paragraph of par. B(4).

LSA-R.S. 27:361

LA R.S. 27:361

END OF DOCUMENT

LA R.S. 27:249

LSA-R.S. 27:249

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 5. THE LOUISIANA ECONOMIC DEVELOPMENT AND GAMING CORPORATION  
LAW  
PART VI. LAND-BASED CASINO OPERATING CONTRACT

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 249. Compulsive gambling; posting information

A. The corporation shall include the cost of the transfer of its monies to the state treasurer for deposit into the Compulsive and Problem Gaming Fund as required by R.S. 27:270(A)(2) as a budgeted item and expense of the corporation.

B. The corporation shall require the posting of signs at points of entry to the official gaming establishment to inform customers of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling as required by R.S. 28:841. Failure by the licensee to post and maintain such a sign or signs shall be cause for the imposition of a fine not to exceed one thousand dollars per day.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1992, No. 384, § 1.

Acts 1993, No. 200, § 1.

Acts 1995, No. 1215, § 1.

R.S. 4:649.

Section 5 of Acts 1995, No. 1014, § 1 of which, inter alia, amended R.S. 4:649 provided:

"Section 5. The provisions of Sections 1 through 4 of this Act are not intended to supersede the provisions of that Act which originated as House Bill No. 2205 of the 1995 Regular Session should that bill be enacted and become law. If that bill should become law, it is the intention of this Act to provide additional revenues to the Compulsive and Problem Gaming Fund created in that Act to be used for the purposes provided for in that Act [House Bill No. 2205 was enacted as Acts 1995, No. 1215]."

In 1996, R.S. 4:649 was redesignated as R.S. 27:249 and a citation internal to subsec. A was changed, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

LSA-R.S. 27:249

LA R.S. 27:249

END OF DOCUMENT

LA R.S. 4:145

LSA-R.S. 4:145

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 4. AMUSEMENTS AND SPORTS  
CHAPTER 4. RACING  
PART I. HORSE RACING

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 145. Executive director; officers; employees; domicile; report to central registry

A. The commission shall select a full-time executive director and may employ a full-time assistant executive director, whose qualifications, duties, and salaries shall be fixed by the commission. Both positions shall be unclassified and the individuals selected shall serve at the pleasure of the commission.

B. The official domicile of the commission shall be in New Orleans, Louisiana. The commission shall maintain an office at its domicile for the transaction of its business, and where it may employ assistants, clerks, or such other employees as it deems necessary for its proper functioning. It may also maintain a branch office in any other parish while racing is being conducted in that parish.

C. In addition to the duties prescribed by the commission, the executive director shall keep records of all proceedings, preserve all

books, maps, documents, papers, records, and reports entrusted to its care, and keep them open for public inspection.

D. The name, address, and location of any such establishment licensed for operating, holding, or conducting any authorized game, gaming or wagering activity, or game of chance issued pursuant to this Chapter, including the name and address of each person who has or controls, directly or indirectly, more than five percent ownership, income, or profit interest, shall be submitted, and updated at least quarterly, to the Louisiana Gaming Control Board for inclusion in a central registry of licensed gaming operators pursuant to R.S. 27:15(B)(3)(c).

CREDIT(S)

1987 Main Volume

Acts 1968, No. 554, § 1.

1999 Electronic Pocket Part Update

Amended by Acts 1992, No. 901, § 1, eff. July 8, 1992; Acts 1997, No. 1192, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1987 Main Volume

Source:

Acts 1956, No. 271, § 1.  
R.S. 4:144.

This section is a part of the amendment and reenactment of Part I by Acts 1968, No. 554, § 1. For disposition of former section of the same number, see italicized note and Table preceding R.S. 4:141.

Prior Laws:

Acts 1940, No. 276, § 3.

LIBRARY REFERENCES

1987 Main Volume

Theaters and Shows k3.10.  
C.J.S. Theaters and Shows § 22.

LSA-R.S. 4:145

LA R.S. 4:145

END OF DOCUMENT

LA R.S. 27:264  
LSA-R.S. 27:264

WEST'S LOUISIANA STATUTES ANNOTATED

LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 5. THE LOUISIANA ECONOMIC DEVELOPMENT AND GAMING CORPORATION  
LAW  
PART IX. PROHIBITIONS, EXCLUSIONS, AND GAMING OFFENSES

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 264. Cheating; definition and penalties

A. Except as provided in Subsection B, any person who by trick or sleight of hand performance, or by a fraud or fraudulent scheme, cards, dice, or device, for himself or for another, wins or attempts to win money or property or a combination thereof, or reduces a losing wager or attempts to reduce a losing wager in connection with gaming operations, shall be imprisoned at hard labor for not more than five years or fined not more than five thousand dollars, or both, if the value of such money or property, or combination thereof, or reduced wager is more than twenty-five dollars.

B. Any person who by any trick or sleight of hand performance, or by fraud or fraudulent scheme, cards, dice, or device, for himself or for another wins or attempts to win money or property or a combination thereof, or reduces a losing wager or attempts to reduce a losing wager in connection with gaming operations, shall be imprisoned for not more than six months or fined not more than one thousand dollars, or both, if the value of such money or property or combination thereof or reduced wager is twenty-five dollars or less.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1992, No. 384, § 1.  
R.S. 4:664.

R.S. 4:664 was redesignated as R.S. 27:264 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

NOTES OF DECISIONS

Sufficiency of evidence 1

1. Sufficiency of evidence

Finding that defendant intended to distract dealer so that he might attempt to increase his winnings in poker game, and, therefore, committed offense of cheating in gaming establishment, was supported by dealer's testimony that defendant added to his ante after asking dealer to make change, surveillance tape corroborating this testimony, and dealer's testimony that defendant was given opportunity to remove added wager but that defendant denied adding to the bet. State v. Malmstrom, App. 4 Cir.1997, 96-0643 (La.App. 4 Cir. 3/26/97), 692 So.2d 14.

LSA-R.S. 27:264

LA R.S. 27:264

END OF DOCUMENT

LA R.S. 33:4851.1

LSA-R.S. 33:4851.1

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V. GAMBLING

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 4851.1. Municipalities with population of 100,000 inhabitants or less

All municipalities in the state of Louisiana having a population of one hundred thousand inhabitants or less are hereby authorized and empowered to pass laws prohibiting within said municipalities gambling or games of chance for money or for value in any form whatsoever, and to define what shall constitute gambling and to provide penalties for the violation of any laws passed under the power hereby delegated.

CREDIT(S)

1988 Main Volume

Added by Acts 1952, No. 327, § 1.

<General Materials (GM) - References, Annotations, or Tables>

LAW REVIEW AND JOURNAL COMMENTARIES

Home rule and local ordinances defining gambling. 38 La.L.Rev. 1108 (1978).

LIBRARY REFERENCES

1988 Main Volume

Municipal Corporations k594(6).  
C.J.S. Municipal Corporations § 231 et seq.

NOTES OF DECISIONS

Construction of statute 1

1. Construction of statute

This section does not authorize cities to declare possession of gambling material paraphernalia a misdemeanor, and ordinance of city enacted pursuant to such Act which declares possession of gambling paraphernalia to be misdemeanor is ultra vires. City of Lake Charles v. Theall, Sup.1954, 227 La. 461, 79 So.2d 739.

LSA-R.S. 33:4851.1

LA R.S. 33:4851.1

END OF DOCUMENT

LA CONST Art. 3, s 12

LSA-Const. Art. 3, § 12

WEST'S LOUISIANA STATUTES ANNOTATED

CONSTITUTION OF THE STATE OF LOUISIANA OF 1974 [ANNOTATED]

ARTICLE III. LEGISLATIVE BRANCH

Current with amendments through 1-1-1999

§ 12. Prohibited Local and Special Laws

Section 12. (A) Prohibitions. Except as otherwise provided in this constitution, the legislature shall not pass a local or special law:

(1) For the holding and conducting of elections, or fixing or changing the place of voting.

(2) Changing the names of persons; authorizing the adoption or legitimation of children or the emancipation of minors; affecting the estates of minors or persons under disabilities; granting divorces; changing the law of descent or succession; giving effect to informal or invalid wills or deeds or to any illegal disposition of property.

(3) Concerning any civil or criminal actions, including changing the venue in civil or criminal cases, or regulating the practice or jurisdiction of any court, or changing the rules of evidence in any judicial proceeding or inquiry before courts, or providing or changing methods for the collection of debts or the enforcement of judgments, or prescribing the effects of judicial sales.

(4) Authorizing the laying out, opening, closing, altering, or maintaining of roads, highways, streets, or alleys; relating to ferries and bridges, or incorporating bridge or ferry companies, except for the erection of bridges crossing streams which form boundaries between this and any other state; authorizing the constructing of street passenger railroads in any incorporated town or city.

(5) Exempting property from taxation; extending the time for the assessment or collection of taxes; relieving an assessor or collector of taxes from the performance of his official duties or of his sureties from liability; remitting fines, penalties, and forfeitures; refunding moneys legally paid into the treasury.

(6) Regulating labor, trade, manufacturing, or agriculture; fixing the rate of interest.

(7) Creating private corporations, or amending, renewing, extending, or explaining the charters thereof; granting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity.

(8) Regulating the management of parish or city public schools, the building or repairing of parish or city schoolhouses, and the raising of money for such purposes.

(9) Legalizing the unauthorized or invalid acts of any officer, employee, or agent of the state, its agencies, or political subdivisions.

(10) Defining any crime.

(B) Additional Prohibition. The legislature shall not indirectly enact special or local laws by the partial repeal or suspension of a general law.

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL NOTES

1996 Main Volume

#### Earlier Constitutions:

1921, Art. 4, §§ 4, 5.  
1913, Arts. 48, 49, 115.  
1898, Arts. 48, 49.  
1879, Arts. 46, 47.  
1868, Art. 113.  
1864, Art. 117.  
1852, Art. 114.  
1845, Art. 117.

Pursuant to Acts 1995, No. 1318, § 1, a proposal to add Const. Art. 3, § 12(C) was submitted to the electors of the state of Louisiana at the gubernatorial primary election on October 21, 1995. The proposal was rejected and did not become law. As added par. (C) would have read:

"(C) Exception. The legislature may enact a local or special law defining a crime that is applicable only in a certain portion or certain parts of the state when the law prohibits or regulates in any manner the time, quantity, or method of taking wildlife or aquatic life of the state or provides for the conservation or protection of the habitat of wildlife or aquatic life of the state. The provisions of this Paragraph shall validate any law enacted prior to the effective

date hereof to the extent that such law is consistent herewith and is otherwise consistent with this constitution."

#### CROSS REFERENCES

Entire or partial repeal, see C.C. art. 8.

Express or implied repeal, see C.C. art. 8.

Repeal of a repealing law; effect, see R.S. 1:15.

Repeal of law; effect on penalty, forfeiture or liability, see R.S. 24:171.

#### LAW REVIEW AND JOURNAL COMMENTARIES

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"Statutory" and "hortatory" provisions of the Louisiana Constitution of 1974. Lee Hargrave, 43 La.L.Rev. 647 (1983).

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1970-1971. Melvin G. Dakin, 32 La.L.Rev. 271 (1972).  
1974-1975 term: Legislative progress. H. Alston Johnson III, 36  
La.L.Rev. 549 (1976).

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Statutes k77(1).  
WESTLAW Topic No. 361.  
C.J.S. Statutes §§ 166 et seq., 210.

#### NOTES OF DECISIONS

Adoption or legitimation of children 18  
Administrative agency rules 10  
Alcoholic beverages  
    Alcoholic beverages - Civil or criminal actions 27  
    Alcoholic beverages - Crimes defined 65  
    Alcoholic beverages - Elections 12  
    Alcoholic beverages - Regulation of labor, trade, manufacturing,  
or agriculture 34  
Amendment of charter, municipal corporations 44  
Appropriations 32  
Bond issues, schools 61  
Bridges and ferries 30  
Charter amendment, municipal corporations 44  
Charters, corporations 41  
Child support, crimes defined 67  
Civil or criminal actions 21-28  
    Civil or criminal actions - In general 21  
    Civil or criminal actions - Alcoholic beverages 27  
    Civil or criminal actions - Collection of debts or enforcement of  
judgment 23  
    Civil or criminal actions - Judicial sales and liquidations 26  
    Civil or criminal actions - Penalties and sentencing 28  
    Civil or criminal actions - Practice, jurisdiction or evidence  
rules 22  
    Civil or criminal actions - Suits against parish or state  
government 24  
    Civil or criminal actions - Violations of municipal ordinances 25  
Collection of debts or enforcement of judgment, civil criminal actions  
23  
Construction and application 1  
Construction with other provisions 5  
Corporations 40-42, 50  
    Corporations - In general 40  
    Corporations - Charters 41  
    Corporations - Liquidation 42  
    Corporations - Special rights, privileges, or immunities 50  
Crimes defined 64-67  
    Crimes defined - In general 64  
    Crimes defined - Alcoholic beverages 65  
    Crimes defined - Child support 67  
    Crimes defined - Vagrancy 66  
Debt, schools 61

Definition of local or special laws 6  
 Definitions, general laws 8  
 Descent or succession 20  
 Determination and procedure 6.5  
 Divorce 19  
 Drugs and medicine, regulation of labor, trade, manufacturing, or agriculture  
     36  
 Elections 11-17, 51  
     Elections - In general 11  
     Elections - Alcoholic beverages 12  
     Elections - Gambling 13  
     Elections - Parish seats 14  
     Elections - Referendum and initiative 17  
     Elections - Schools 15  
     Elections - Special rights, privileges, or immunities 51  
     Elections - Voting machines 16  
 Employers' Liability Act, special rights, privileges, or immunities 52  
 Employment matter, schools 62  
 Enforcement of judgment or collection of debts, civil or criminal action 23  
 Ferries and bridges 30  
 Fishing, regulation of labor, trade, manufacturing, or agriculture 35  
 Franchises, special rights, privileges, or immunities 53  
 Gambling  
     Gambling - Elections 13  
     Gambling - Special rights, privileges, or immunities 54  
 General laws 8,9  
     General laws - Definition 8  
     General laws - Local or special laws distinguished 9  
 Government, municipal corporations 45  
 Health care, special rights, privileges, or immunities 55  
 Highways, streets and roads 29  
 Horse racing, special rights, privileges, or immunities 54  
 Indebtedness, schools 61  
 Indirect enactment of local or special laws 68-71  
     Indirect enactment of local or special laws - In general 68  
     Indirect enactment of local or special laws - Municipalities 71  
     Indirect enactment of local or special laws - Police jurors 70  
     Indirect enactment of local or special laws - Taxes 69  
 Initiative and referendum 17  
 Inspections, regulation of labor, trade, manufacturing, or agriculture 38  
 Interest rate, regulation of labor, trade, manufacturing or agriculture 39  
 Judicial sales and liquidations, civil or criminal actions 26  
 Legalizing unauthorized or invalid acts 63  
 Legitimation of children 18  
 Levee districts, municipal corporations 47  
 Liquidation, corporations 42  
 Local or special laws defined 6  
 Local or special laws distinguished from general laws 9  
 "Management of public schools" defined 59  
 Medical practice, special rights, privileges, or immunities 55  
 Medicine and drugs, regulation of labor, trade, manufacturing, or agriculture

- Mining, regulation of labor, trade, manufacturing, or agriculture 37
- Municipal corporations 43-47, 56
  - Municipal corporations - In general 43
  - Municipal corporations - Amendment of charter 44
  - Municipal corporations - Government 45
  - Municipal corporations - Levee districts 47
  - Municipal corporations - Special rights, privileges, or immunities 56
    - Municipal corporations - Taxes 46
- Municipalities, indirect enactment of local or special laws 71
- Operation of law limited 7
- Parish seats, elections 14
- Penalties and sentencing, civil or criminal actions 28
- Personal issues, schools 62
- Police jurors, indirect enactment of local or special laws 70
- Practice, jurisdiction or evidence rules, civil or criminal actions 22
- Property ownership 48
- Punishment, civil or criminal actions 28
- Purpose 4
- Referendum and initiative, elections 17
- Regulation of labor, trade, manufacturing, or agriculture 33-39
  - Regulation of labor, trade, manufacturing, or agriculture - In general 33
    - Regulation of labor, trade, manufacturing, or agriculture - Alcoholic beverages 34
    - Regulation of labor, trade, manufacturing, or agriculture - Fishing 35
    - Regulation of labor, trade, manufacturing, or agriculture - Inspections 38
    - Regulation of labor, trade, manufacturing, or agriculture - Interest rate 39
    - Regulation of labor, trade, manufacturing, or agriculture - Medicine and drugs 36
    - Regulation of labor, trade, manufacturing, or agriculture - Mining 37
- Repeal as indirect enactment of local or special laws 68-71
- Roads, highways and streets 29
- Rules of administrative agencies 10
- School board members, schools 60
- Schools 15, 58-62
  - Schools - In general 58
  - Schools - Debt 61
  - Schools - Elections 15
  - Schools - Employment matter 62
  - Schools - "Management of public schools" defined 59
  - Schools - School board members 60
- Sentencing and penalties, civil or criminal actions 28
- Special laws defined 6
- Special or local laws distinguished from general laws 9
- Special rights, privileges, or immunities 49-57
  - Special rights, privileges, or immunities - In general 49
  - Special rights, privileges, or immunities - Corporations 50
  - Special rights, privileges, or immunities - Elections 51
  - Special rights, privileges, or immunities - Employers' Liability Act 52
    - Special rights, privileges, or immunities - Franchises 53
    - Special rights, privileges, or immunities - Gambling 54

Special rights, privileges, or immunities - Medical practice 55  
Special rights, privileges, or immunities - Municipal  
corporations 56  
Special rights, privileges, or immunities - Suits against state  
57  
Streets, roads and highways 29  
Succession 20  
Suits against parish or state government, civil or criminal actions 24  
Suits against state, special rights, privileges, or immunities 57  
Taxation 31  
Taxes, indirect enactment of local or special laws 69  
Taxes, municipal corporations 46  
Vagrancy, crimes defined 66  
Validity of laws, generally 2  
Validity of prior law 3  
Violations of municipal ordinances, civil or criminal actions 25  
Voting machines, elections 16  
See also Notes of Decisions under Const.Art. 3, § 13.

#### 1. Construction and application

Legal determination of whether law is local or special may be based in part on equal protection considerations. *Nomey v. State, Through Edwards*, Sup.1975, 315 So.2d 709.

Const.1879, Art. 46, prohibiting the legislature from passing local or special laws in certain cases did not affect past legislation. *Pecot v. Police Jury of St. Mary*, Sup.1889, 41 La. Ann. 706, 6 So. 677.

Const.1879, Art. 48, prohibiting the enactment of local or special laws, does not apply to legislation within the power under Art. 154 to prescribe that judicial advertisements in certain cities be made in French as well as in English. *Davidson v. Houston*, 1883, 35 La. Ann. 492.

#### 2. Validity of laws, generally

A statute does not become "special" and unconstitutional because part of those charged with the application of it violate their duty and only apply it to part of class to which it is applicable. *Webster Parish School Bd. v. Guste*, App. 2 Cir.1980, 391 So.2d 913.

#### 3. Validity of prior law

Acts 1924, No. 110, § 2 (R.S. 19:2), authorizing electric companies to expropriate rights of way was not unconstitutional as a special law since subject matter of the act was not included within Const.1921, Art. 4, § 4, enumerating the subjects on which legislature could not pass any local or special law. *Louisiana Power & Light Co. v. Mosley*, App. 2 Cir.1944, 18 So.2d 210.

#### 4. Purpose

Constitutional prohibition against special or local laws is intended to reflect policy decision that legislative resources and attention should be concentrated upon matters of general interest, and that purely local matters should be left to local governing authorities;

prohibition is not intended to restrict legislature's ability to adopt legislation for health, safety and general welfare of citizens of state. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Const.1921, Art. 4, § 4 (see now, this section) prohibiting the legislature from passing a special law on certain specified subjects was intended to prevent abuse of legislative power on behalf of special interests and to prohibit the exemption of an individual or private corporation from the operation of a general law; it was not intended to restrict the use of legislative power to further the state's interest and, hence, should not be inflexibly interpreted to prohibit the legislature from passing a statute in an emergency situation to benefit a public body, even if several private corporations are incidentally thereby benefited. Martin v. Louisiana Stadium and Exposition Dist., App. 4 Cir.1977, 349 So.2d 349.

#### 5. Construction with other provisions

Const.1921, Art. 3, § 35, authorizing legislature to waive state's immunity from liability, does not conflict with prohibitions of Const.1921, Art. 4, § 4 against class legislation or transfer of state property, and in any case was superior to them. Fullilove v. U. S. Cas. Co. of N. Y., App. 2 Cir.1961, 129 So.2d 816.

Const.1921, Art. 4, § 4, prohibiting legislature from passing local or special laws on certain specified subjects and excepting the law for the organization of parishes from operation thereof, did not authorize the enactment of special laws for the governmental organization of one parish in view of Const.1921, Art. 14, § 3, which limited power of legislature in adoption of plans of parish government to such optional plans as were made available to each and every other parish. Ladnier v. Mollere, Sup.1956, 230 La. 784, 89 So.2d 301.

#### 6. Definition of local or special laws

When operation of a law is limited to certain parishes, it is immediately suspect as a local law. Kimball v. Allstate Ins. Co., Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

Law is not local, even though its enforcement may be restricted to particular locality or localities, where conditions under which it operates simply do not prevail in other localities. Kimball v. Allstate Ins. Co., Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

Law whose application and immediate effect is restricted to particular locality is not considered local where persons throughout state are affected by it or it operates on subject in which the people at large are interested. Kimball v. Allstate Ins. Co., Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

Special law is one which operates upon and affects only fraction of persons or portion of property encompassed by classification, granting privileges to some persons while denying them to others. Kimball v. Allstate Ins. Co., Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

Special law is one that confers particular privileges or imposes peculiar disabilities or burdensome conditions in exercise of common right upon class of persons arbitrarily selected from general body of those who stand in precisely same relation to subject of the law. *Kimball v. Allstate Ins. Co.*, Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

Law will be considered local or special, and therefore subject to constitutional requirements, where its restrictions can affect only portion of citizens (special) or fraction of property (local) embraced within created classification, and where there is no reasonable basis for creation of classification or substantial difference between class created and subjects excluded justifying the exclusion. *Kimball v. Allstate Ins. Co.*, Sup.1998, 97- 2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

Statute is considered special or local if its restrictions can affect only portion of citizens or fraction of property embraced within created classification, whereas laws are considered general if persons or things throughout state are affected, if it operates on subject in which people at large are interested or operates over whole territory of state instead of just particular locality. *Livingston Downs Racing Ass'n, Inc. v. State*, Sup.1997, 96-2890 (La. 12/2/97), 705 So.2d 149, rehearing denied.

Where persons throughout state are affected by law, or if law operates on subject in which people at large are interested, statute is not local or special law even though its application and immediate effect is restricted to particular locality. *Livingston Downs Racing Ass'n, Inc. v. State*, Sup.1997, 96-2890 (La. 12/2/97), 705 So.2d 149, rehearing denied.

Initial question in determining whether law is "local" or "special" as opposed to "general," is whether its operation is limited solely by designation of certain parishes; however, law is not necessarily local, even though it is directed at specific localities, if persons throughout the state are affected by it or if it operates on subject in which people at large are interested. *City of Bogalusa v. Washington Parish Sales/Use Tax Centralization Com'n*, App. 1 Cir.1995, 94 2413 (La.App. 1 Cir. 6/23/95), 658 So.2d 1336, rehearing denied.

A statute is considered a "special or local law" if its restrictions can affect only a portion of the citizens or a fraction of property embraced within created classification. *State v. Slay*, Sup.1979, 370 So.2d 508.

Mere fact that a statute's enforcement is limited to a particular locality does not by itself render the statute a "special or local law," simply because conditions under which it operates may not prevail in all localities; the salient characteristic of a "special or local law" is that it operates in one locality without possibility of extended coverage to other areas if the requisite criteria of statutory classification are determined to exist there, or that it affects only a certain number of persons within a class, and not all persons possessing the class characteristics. *State v. Slay*, Sup.1979, 370 So.2d 508.

When operation of law is limited to certain parishes, it is suspect as local or special law; if its operation is so limited solely through effect of reasonable general classification, law should not be considered within this section's prohibition against local or special laws; however, if its operation is limited solely by its specific designation of certain parishes, it must be considered a local law violative of this section. *State v. Labauve*, Sup.1978, 359 So.2d 181.

Law is not local or special, even though its enforcement may be restricted to particular locality, simply because conditions under which it operates did not prevail in every locality. *Davenport v. Hardy*, Sup.1977, 349 So.2d 858.

Legislation is not "local legislation" or "special legislation" when the act applies to a class founded upon reasonable and proper classification. *Sapir v. Hardy*, App. 4 Cir.1977, 349 So.2d 478, writ denied 349 So.2d 867.

"Local" law is one that operates only in particular locality without possibility of extending its coverage to other areas should requisite criteria of its statutory classification exist there; statute is "special" if it affects only certain number of persons within class and not all persons possessing characteristics of class. *State ex rel. Miller v. Henderson*, Sup.1976, 329 So.2d 707.

A "local law" is one that operates only in a particular location without possibility of extending its coverage to other areas should the requisite criteria of its statutory classification exist there. *Teachers' Retirement System of Louisiana v. Vial*, Sup.1975, 317 So.2d 179.

A statute is "special statute" if it affects only a certain number of persons within a class and not all persons possessing the characteristics of the class and, in essence, a special law is one directed to secure some private advantage or advancement for benefit of private persons. *Teachers' Retirement System of Louisiana v. Vial*, Sup.1975, 317 So.2d 179.

Statute authorizing local option elections, was "special," since its parishwide application was confined to 12 enumerated parishes. *Nomey v. State, Through Edwards*, Sup.1975, 315 So.2d 709.

Whether law is "special" or "local" depends on whether it operates only on certain number of persons within a class, but does not affect generally all persons within such class. *Kotch v. Board of River Port Pilot Com'rs for Port of New Orleans*, Sup.1946, 209 La. 737, 25 So.2d 527, affirmed 67 S.Ct. 910, 330 U.S. 552, 91 L.Ed. 1093, rehearing denied 67 S.Ct. 1196, 331 U.S. 864, 91 L.Ed. 1869.

A "local or special law" is one which, because of its restrictions, can operate upon or affect only a portion of the citizens, a fraction of the property embraced within the classification created. *Kotch v. Board of River Port Pilot Com'rs for Port of New Orleans*, Sup.1946, 209 La. 737, 25 So.2d 527, affirmed 67 S.Ct. 910, 330 U.S. 552, 91 L.Ed. 1093, rehearing denied 67 S.Ct. 1196, 331 U.S. 864, 91 L.Ed. 1869.

A statute is not a "special" or "local law" merely because conditions under which it can operate prevail in only certain parts of state. *Kotch v. Board of River Port Pilot Com'rs for Port of New Orleans*, Sup.1946, 209 La. 737, 25 So.2d 527, affirmed 67 S.Ct. 910, 330 U.S. 552, 91 L.Ed. 1093, rehearing denied 67 S.Ct. 1196, 331 U.S. 864, 91 L.Ed. 1869.

#### 6.5. Determination and procedure

Court's inquiry into whether statute is unconstitutional local or special law begins with determination of whether law is, in fact, local or special; if it is, court must then ascertain whether law concerns prohibited subject. *Kimball v. Allstate Ins. Co.*, Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

#### 7. Operation of law limited

A law may be "general," although presently operative on but a single individual, thing, place, or political subdivision such as a county or municipal corporation, and its general character is not affected by the number of persons, things, or localities which come within its scope. *Williams v. Guerre*, Sup.1935, 182 La. 745, 162 So. 609.

#### 8. General laws--Definition

"General laws" are those that operate equally and uniformly upon all persons brought within relations and circumstances for which they provide or that operate equally upon all persons of a designated class founded upon a reasonable and proper classification. *Teachers' Retirement System of Louisiana v. Vial*, Sup.1975, 317 So.2d 179; *Knapp v. Jefferson-Plaquemines Drainage Dist.*, 1954, 224 La. 105, 68 So.2d 774; *State v. Clement*, 1938, 188 La. 923, 178 So. 493.

A "general law" operates equally and uniformly upon all persons brought within the relations and circumstances for which it provides or operates equally upon all of a designated class, founded upon a reasonable and proper classification. *State v. Slay*, Sup.1979, 370 So.2d 508.

A law general in its terms, applying to all persons alike throughout the state, is not a "local law" within Const. 1898, Arts. 48, 49, forbidding local laws, merely because the conditions under which it can operate prevail only in certain parts of the state. *State v. Donato*, Sup.1910, 127 La. 393, 53 So. 662.

#### 9. ---- Local or special laws distinguished, general laws

Generally, statute is considered to be local if it operates only in particular locality or localities without possibility of extending its coverage to other areas should requisite criteria exist or come to exist there. *Kimball v. Allstate Ins. Co.*, Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

As with law which classifies on basis of geographic conditions or particularly designated localities, classification of certain parties will not render law special if it is based on substantial difference between class created and subjects excluded, and there is reasonable

basis for distinction. *Kimball v. Allstate Ins. Co.*, Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

In contradistinction to local or special law, general law is one which operates equally and uniformly upon all persons brought within relations and circumstances for which it provides or operates equally upon all of designated class which has been founded upon reasonable classification. *Kimball v. Allstate Ins. Co.*, Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

Initial question in determining whether law is "local or special" within constitutional prohibition of such laws, if they concern certain enumerated topics, is whether its operation is limited solely by designation of certain parishes, but law is not necessarily local or special because it is directed at specific localities, and real distinction is that general law affects the community as a whole, whether throughout the state or one of its subdivisions, while "local or special law" affects private persons, private property, or private or local interests. *Louisiana Paddlewheels v. Louisiana Riverboat Gaming Com'n*, Sup.1994, 94-2015 (La. 11/30/94), 646 So.2d 885.

"General law" is one which operates equally and uniformly upon all persons brought within relations and circumstances for which it provides, or one which operates equally upon all of designated class, founded upon reasonable and proper classifications; "local law" or "special law" is one which, because of its restrictions, can operate upon or affect only a portion of the citizens or a fraction of the property embraced within the classification created. *Davenport v. Hardy*, Sup.1977, 349 So.2d 858.

"Public" or "general laws" affect community as whole, whether throughout state or one of its subdivisions, while "local" or "special laws" affect private persons, private property or local private interests. *Kotch v. Board of River Port Pilot Com'rs for Port of New Orleans*, Sup.1946, 209 La. 737, 25 So.2d 527, affirmed 67 S.Ct. 910, 330 U.S. 552, 91 L.Ed. 1093, rehearing denied 67 S.Ct. 1196, 331 U.S. 864, 91 L.Ed. 1869.

A statute general in its terms is not to be regarded as local or special law as contradistinguished from a general law merely because the conditions under which the law may operate or have effect do not prevail in every locality in the state. *Clark v. City of Opelousas*, Sup.1919, 147 La. 1, 84 So. 433.

"Local or special legislation" applies exclusively to special or particular places, or special or particular persons, and is distinguishable from a "general statute." *Charbonnet v. Forschler*, Sup.1915, 138 La. 279, 70 So. 224.

The question whether a statute be local or general is a question of place only. *State ex rel. Jury Com'rs v. City of New Orleans*, 1884, 2 McGloin, 46.

#### 10. Administrative agency rules

Rule of racing promulgated by State Racing Commission setting forth jockey mount fee schedule operated equally and uniformly upon all

jockeys mounting horses in races in the state, and since classification of jockeys, as opposed to other licensees and permittees, was reasonable, rule applied to "general" rather than "special" class and did not violate this section. Louisiana Division of Horsemen's Benev. and Protective Ass'n v. Louisiana State Racing Commission, App. 4 Cir.1980, 391 So.2d 589, writ not considered 397 So.2d 1362.

#### 11. Elections--In general

Prohibition in Const.1921, Art. 4, § 4, against local or special laws dealing with elections meant elections by the people, not elections by public boards of their own officers. Mendel v. Gennaro, App. 4 Cir.1963, 154 So.2d 531, writ refused 244 La. 968, 155 So.2d 199.

#### 12. ---- Alcoholic beverages, elections

Necessary and mandatory effect of local option election would be enactment of ordinance giving effect to results of election, and statute providing for local option elections, fell within proscription against special laws, notwithstanding contention that election provided for was not type of election contemplated by subsec. (1) of this section and Const.1921, Art. 4, § 4, since governing authority would not be required to enact ordinance in accordance with will of electorate. Nomey v. State, Through Edwards, Sup.1975, 315 So.2d 709.

Statute authorizing local option elections, was a statute affecting elections, within prohibition of subsec. (1) of this section and Const.1921, Art. 4, § 4, against special laws, notwithstanding that the purpose of elections approved in statute was to regulate intoxicating beverages. Nomey v. State, Through Edwards, Sup.1975, 315 So.2d 709.

If proposal, to prohibit sale of beverages containing 3.2 percent alcohol by weight and less, was favorably voted upon in parishwide election, trade, sale and manufacture of that product in parish would be prohibited by ordinance and penalties for violation of ordinance would attach and, therefore, effect of statute authorizing local option elections, was to enact special legislation regulating elections and trade and defining crimes, within proscription of subsecs. (1), (6), and (10) of this section and Const.1921, Art. 4, § 4. Nomey v. State, Through Edwards, Sup.1975, 315 So.2d 709.

Police Jury's refusal to renew license of sellers of alcoholic beverage based upon results of wet-dry election conducted in accordance with unconstitutional act authorizing wet-dry election was unauthorized and licensees were entitled to injunction. Camp v. Washington Parish Police Jury, App. 1 Cir.1968, 217 So.2d 478, writ refused 253 La. 650, 219 So.2d 178.

Act No. 458 of 1962, authorizing wet-dry election in unincorporated portion of specific ward in specific parish, violated constitutional proscription of Const.1921, Art. 4, § 4, against any local or special law for holding and conducting elections, or fixing or changing place of voting. Camp v. Washington Parish Police Jury, App. 1 Cir.1968, 217 So.2d 478, writ refused 253 La. 650, 219 So.2d 178.

Const.1921, Art. 4, § 4, prohibiting legislature from passing any local or special law for holding and conducting of election, or fixing

or changing place of voting, was applicable to wet-dry election as well as to general election of public officers. *Camp v. Washington Parish Police Jury*, App. 1 Cir.1968, 217 So.2d 478, writ refused 253 La. 650, 219 So.2d 178.

Legislature has constitutional authority to provide by appropriate legislation for police jury to call wet-dry election in an unincorporated portion of ward. *Camp v. Washington Parish Police Jury*, App. 1 Cir.1968, 217 So.2d 478, writ refused 253 La. 650, 219 So.2d 178.

Legislature's constitutional authority to provide by appropriate legislation for police jury to call wet-dry election in unincorporated portion of ward must be exercised within permissive bounds of constitution and not in violation of prohibitive provisions. *Camp v. Washington Parish Police Jury*, App. 1 Cir.1968, 217 So.2d 478, writ refused 253 La. 650, 219 So.2d 178.

A local option election may be held only in the present political boundaries of a police jury ward or incorporated municipality. Op.Atty.Gen., No. 89-114, March 23, 1989.

A local option election on beverages of low alcoholic content, resulting in prohibiting the sale thereof, did not violate Const.1921, Art. 4, § 4, nor R.S. 26:583. Op.Atty.Gen.1950-52, p. 95.

#### 13. ---- Gambling, elections

Statutes prohibiting issuance of license for riverboat gambling operations in two parishes without approval of majority of electors at referendum election constituted local or special law concerning the holding and the conduct of elections, within constitutional prohibition, in that those two parishes were given far greater autonomy and control with regard to riverboat gaming than was afforded to remaining parishes of state. *Louisiana Paddlewheels v. Louisiana Riverboat Gaming Com'n*, Sup.1994, 94-2015 (La. 11/30/94), 646 So.2d 885.

#### 14. ---- Parish seats, elections

Under the provisions of Const.1879, Art. 250, in all cases in which the legislature passes an act removing the parish seat of any parish, it must order a special election for the purpose of ratification or rejection of the act by the electors of the parish, and the legislature has in such cases the full power, by a special act, to prescribe rules for conducting such elections, and to adopt such parts of the general election laws as may suit the purpose; Const.1879, Art. 46, which prohibits the enactment of special or local laws for opening or conducting elections, notwithstanding. *Mobley v. Police Jury of Bossier Parish*, Sup.1889, 41 La. Ann. 821, 6 So. 779.

#### 15. ---- Schools, elections

Const.1921, Art. 4, § 4, prohibiting enactment of local or special law for holding and conducting elections or for regulating management of schools was not violated by enactment of R.S. 17:60 (repealed) providing for election of members of Jefferson Parish School Board,

setting forth parish division from which members should be elected, prohibiting certain conduct which might promote conflict of interest and providing for election of board president and for meetings; overruling Mendel v. Gennaro, 154 So.2d 531. Jefferson Parish School Bd. v. Jefferson Parish Democratic Executive Committee, Sup.1964, 246 La. 51, 163 So.2d 348.

Statutory provisions, R.S. 17:121(D)(1 to 3), which make it a misdemeanor for any school board member or other elected official to campaign for or against the candidacy of any person for the office of school board member are unconstitutional under Const. Art. 3, § 12 prohibiting enactment of a local or special law. Op.Atty.Gen., No. 89-236, May 17, 1989.

16. ---- Voting machines, elections

The voting machine law, Acts 1940, No. 84 making the use of voting machines mandatory in New Orleans and granting to other parishes of the state the option of determining whether they will adopt voting machines or not is not invalid as a "special law" or "local law" dealing with elections in New Orleans. Peck v. City of New Orleans, Sup.1941, 199 La. 76, 5 So.2d 508.

17. ---- Referendum and initiative, elections

Public referendum and initiatives are prohibited unless otherwise provided in the Constitution of 1974. Op.Atty.Gen., No. 75-277, March 25, 1975.

18. Adoption or legitimation of children

Const.1868, Art. 113, prohibiting the adoption of children by special legislative act, does not prohibit legitimation of children by such an act. Hughes v. Murdock, Sup.1893, 45 La. Ann. 935, 13 So. 182.

19. Divorce

Subject to restriction of Const.1921, Art. 4, § 4, that legislature should not pass any local or special law granting divorces, the subject of divorce was exclusively within the control of the legislature. Otis v. Bahan, Sup.1946, 209 La. 1082, 26 So.2d 146.

20. Descent or succession

Municipal inheritance tax ordinances did not violate state constitutional prohibition against passage of local or special legislation changing law of descent or succession; ordinances did not attempt to regulate or in any manner change existing regulations of devolution of property upon death, but simply taxed event of transmission in receipt of property. Hildebrand v. City of New Orleans, Sup.1989, 549 So.2d 1218, rehearing denied, certiorari denied 110 S.Ct. 1476, 494 U.S. 1028, 108 L.Ed.2d 613.

Provision of Teachers' Retirement Act giving right to teacher to designate beneficiary of accumulated contributions, did not violate Const.1921, Art. 4, § 4, prohibiting legislature from passing any local or special law changing the law of descent or succession on theory that

it gave effect to an informal or invalid will and constituted a disposition mortis causa made other than by last will and testament, since the accumulated funds of decedent in the teachers' retirement system formed no part of the estate of the deceased and inured directly to the beneficiary as designated by virtue of authority in Const.1921, Art. 12, § 23 and Teachers' Retirement Act. Teachers' Retirement System of Louisiana v. Vial, App. 1 Cir.1974, 304 So.2d 53, writ issued 307 So.2d 367, affirmed 317 So.2d 179.

Acts 1942, No. 275, §§ 1 to 3, consenting to maintenance of suit against Cameron parish for accidental death of jail prisoner and authorizing payment of claim therefor out of general funds of parish does not violate prohibition of Const.1921, Art. 4, § 4, against "local or special law" giving effect to informal or invalid wills, or deeds or illegal disposition of property. Hebert v. Miller, Sup.1944, 205 La. 105, 17 So.2d 1.

Acts 1932, No. 140, § 34 providing that shares in homestead and building and loan associations standing in name of married woman should belong to her as her separate property applied to all married women who engage in transactions respecting shares of stock in building and loan and homestead associations, and was not violative of Const.1921, Art. 4, § 4, relating to "local or special law" changing law of descent or succession. Ferguson v. Hayes' Heirs, Sup.1943, 202 La. 810, 13 So.2d 223.

#### 21. Civil or criminal actions--In general

Statute governing right to jury trial in litigation against City of Baton Rouge and Parish of East Baton Rouge was not local law, as its geographic application was not limited to any particular locality in state, and instead operated over whole territory of state and applied in every parish in which plaintiff filed suit against city or parish; designation of locality in its role as party to lawsuit did not render law applicable only in particular locality. Kimball v. Allstate Ins. Co., Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

The provision of this section prohibiting the passage of a special law "concerning any civil or criminal actions" is applicable only where there is concerned a distinct lawsuit or lawsuits or where the group of affected litigants or lawsuits has no rationally distinctive characteristics. Everett v. Goldman, Sup.1978, 359 So.2d 1256.

Acts 1936, No. 130 prohibiting trapping upon certain swamp lands without owner's consent did not violate Const.1921, Art. 4, § 4, prohibiting passage of any local or special law "concerning any civil or criminal action". State v. Clement, Sup.1938, 188 La. 923, 178 So. 493.

Const.1913, Art. 48, forbidding passage of any local or special law concerning civil or criminal actions, merely means that Legislature shall not pass local or special law affecting any particular lawsuit, or regulating trial of lawsuits in a particular locality. State v. McCue, Sup.1917, 141 La. 417, 75 So. 100.

#### 22. ---- Practice, jurisdiction or evidence rules, civil or criminal actions

R.S. 15:574.15, giving elected state or parochial official power to parole persons arrested for violation of municipal ordinances and imposing penalty on officers of municipality who refuse to honor paroles, did not violate Const.1921, Art. 4, § 4, that the legislature should not pass any local or special law regulating practice or jurisdiction of any court. *City of New Orleans v. Borey*, 1951, 52 So.2d 728.

R.S. 15:201 (repealed; see, now, C.Cr.P. arts. 784, 785) providing for drawing of tales jurors in criminal district court for parish of Orleans from regular and special panels of different sections of such court was not unconstitutional as local or special law regulating courts' practice or jurisdiction. *State v. O'Day*, Sup.1937, 188 La. 169, 175 So. 838.

Acts 1870, No. 87, and Acts 1877, No. 74, under which an appointment of a public administrator was made, did not violate Const.1898, Art. 48, prohibiting the passage of special or local laws regulating the practice or jurisdiction of courts. *Flanagan v. Land Development Co. of Louisiana*, Sup.1919, 145 La. 843, 83 So. 39.

Under Const.1913, Art. 48, prohibiting local or special laws regulating practice or jurisdiction of any court, etc., Acts 1900, No. 27, a general statute as to appeals from city courts to district court, could not be repealed by Acts 1914, No. 14, providing that appeals from city court of B. in misdemeanor cases shall lie to Supreme Court on questions of law alone where a fine exceeding \$300 or imprisonment exceeding three months is imposed. *State ex rel. Saragusa v. Ott*, Sup.1919, 144 La. 948, 81 So. 435.

Acts 1886, No. 70, § 1 (R.S. 45:504), which provides that in suits against railroads for the killing, etc., of stock, it shall suffice, in order to recover to prove the killing or injury unless defendant shows that it did not result from carelessness on its part, etc., is a general law applying throughout the state and to all railroads, and, since it merely makes a change in the rules of procedure and evidence in a particular class of cases, does not discriminate invidiously between persons, and hence does not contravene Const. Art. 48, §§ 15, 18, forbidding the passage of local or special laws regulating the practice of courts or changing the rules of evidence. *Learned & Koontz v. Texas & P. Ry. Co.*, Sup.1911, 128 La. 430, 54 So. 931.

Acts 1880, No. 45 entitled "An act to organize the city courts in the city of New Orleans, to regulate the territorial jurisdiction thereof, and proceedings therein, and to fix the salaries of judges," is not unconstitutional, as against Const.1879, Art. 46, which provides that the general assembly shall not pass any local or special law regulating the practice or jurisdiction, proceeding or inquiry before courts. *State ex rel. Levy v. Judge Third City Court*, Sup.1887, 39 La. Ann. 889, 2 So. 786.

That portion of Acts 1921, Ex.Sess., No. 128, which related to the practice in the city courts of New Orleans, having been enacted in response to express authority conferred by Const.1921, Art. 7, § 27, was not amenable to the restrictions imposed by Const.1921, Art. 4, § 4. *Sassinot's Estate v. Demourelle*, 1924, 1 La.App. 160.

That portion of Acts 1910, No. 16 (R.S. 13:4446), which relates to appeals from City Courts of New Orleans is not a local or special legislation within the purview of Const.1898, Art. 48, and, moreover, said Act having been enacted in response to express power or authority conferred by Const.1898, Art. 104, it is not amenable to the restrictions imposed by Const.1898, Art. 48. *Abry Bros. v. Reynes*, 1911, 8 Orleans App. 140.

23. ---- Collection of debts or enforcement of judgment, civil or criminal actions

Where judgment of expropriation would have been enforced by ordinary method, that is, a mere signing of the final judgment, if senate concurrent resolution, purportedly waiving state's prescription or peremption rights had not been passed by legislature and offered into evidence by the landowner who sought additional compensation for the expropriated property, the resolution changed court's method for enforcing its judgment and thus ran afoul of Const.1921, Art. 4, § 4, that the legislature shall not pass any special law which regulates the practice of any court or changes methods for the enforcement of judgments. *State Through Dept. of Highways v. Terral*, App. 3 Cir.1968, 206 So.2d 307, writ refused 251 La. 939, 207 So.2d 540.

Failure of landowner to file answer to expropriation suit within 30 days constituted waiver or abandonment or relinquishment of his statutory cause of action with regard to seeking additional compensation for the property expropriated, and senate concurrent resolution which the landowner subsequently secured, purportedly waiving state's prescription or peremption rights with respect to the particular landowner's claim, did not and could not serve to re-establish the defunct cause of action or prevent execution of the judgment of expropriation previously entered. *State Through Dept. of Highways v. Terral*, App. 3 Cir.1968, 206 So.2d 307, writ refused 251 La. 939, 207 So.2d 540.

Acts 1894, No. 180 giving workmen and material men certain rights against the owner, in cases of contracts in excess of \$1,000, unless a bond is required of the contractor to pay the claims of the former, which is applicable only to cities having 10,000 or more inhabitants, is not a special or local law, within Const.1879, Arts. 46, 47. *McKeon v. Sumner Building & Supply Co.*, Sup.1899, 51 La. Ann. 1961, 26 So. 430.

24. ---- Suits against parish or state government, civil or criminal actions

Statute governing right to jury trial in litigation against City of Baton Rouge and Parish of East Baton Rouge was special law concerning civil actions, and thus was unconstitutional, as it concerned and affected any and all lawsuits in which city and parish was made defendant, although statute did not regulate practice or jurisdiction of any court. *Kimball v. Allstate Ins. Co.*, Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

Acts 1942, No. 275, §§ 1 to 3, consenting to maintenance of suit against Cameron parish for accidental death of jail prisoner and authorizing payment of claim therefor out of general funds of parish

does not violate prohibition of Const.1921, Art. 4, § 4, against "local or special law" concerning any civil or criminal actions. Hebert v. Miller, Sup.1944, 205 La. 105, 17 So.2d 1.

Acts 1942, No. 275, §§ 1 to 3, consenting to maintenance of suit against Cameron parish for accidental death of jail prisoner and authorizing payment of claim therefor out of general funds of parish does not violate prohibition of Const.1921, Art. 4, § 4, against "local or special law" regulating practice or jurisdiction or courts, changing rules of evidence or methods of collecting debts or enforcing judgments and prescribing effects of judicial sales. Hebert v. Miller, Sup.1944, 205 La. 105, 17 So.2d 1.

Acts 1938, No. 287, authorizing named person to sue state for damage resulting from personal injuries caused by negligence of state highway commission's employees is not unconstitutional as special law pertaining to civil action. Mallard v. State, App.1939, 194 So. 447.

25. ---- Violations of municipal ordinances, civil or criminal actions

R.S. 15:574.15, giving elected state or parochial official power to parole persons arrested for violation of municipal ordinances and imposing penalty on officers of municipality who refuse to honor paroles, did not violate Const.1921, Art. 4, § 4, that the legislature should not pass any local or special law concerning any civil or criminal actions. City of New Orleans v. Borey, 1951, 52 So.2d 728.

26. ---- Judicial sales and liquidations, civil or criminal actions

Acts 1915, No. 24, authorizing school directors of Caldwell parish to cause judicial liquidation of defunct corporation, is not violative of Const.1913, Art. 48, §§ 12, 13, 18, 20, relating to local or special laws. Board of School Directors of Caldwell Parish v. Meridith, Sup.1916, 140 La. 269, 72 So. 960.

27. ---- Alcoholic beverages, civil or criminal actions

Defendant, prosecuted, under Acts 1918, No. 20, for bringing liquors into prohibition territory thereby established around a United States cantonment, could not contend that § 8 thereof, requiring trial judge to try such suits by preference, violated Const.1913, Art. 48, forbidding local or special laws concerning civil or criminal actions, where record did not show that a preference was exercised in his case. State v. Lahiff, Sup.1919, 144 La. 362, 80 So. 590.

28. ---- Penalties and sentencing, civil or criminal actions

Acts 1928, No. 15 (R.S. 15:529.1), providing increased penalties for second offenders, applicable throughout state alike upon second offenders, was not unconstitutional as special law regulating practice, jurisdiction, and evidence rules. State v. Guidry, Sup.1929, 169 La. 215, 124 So. 832.

29. Roads, highways and streets

City governed by the general municipal statute, Acts 1898, No. 136 had power to initiate proceedings for street improvements, notwithstanding

§ 34 of such act as amended and re-enacted by Acts 1904, No. 131 requiring petition of abutting property owners; such provision being in effect amended by Acts 1912, No. 241 (R.S. 33:3401-33:3404 et seq.), amending Acts 1890, No. 10 (R.S. 9:4621, 9:4622), the act of 1898, not being a special or local law, in view of Const.1898, Art. 48. Clark v. City of Opelousas, Sup.1919, 147 La. 1, 84 So. 433.

An ordinance of a police jury authorizing a plank road company to operate a toll road, which was at the time a public highway, but for many years had been a toll road, is not violative of Const.1898, Art. 48, as conferring a monopoly on such company. St. Joseph Plank Road Co. v. Kline, Sup.1901, 106 La. 325, 30 So. 854.

A vote of the property taxpayers is unnecessary to authorize a street improvement in the city of New Orleans, since it is matter within legislative discretion, under Const.1879, Art. 46, reserving to the general assembly plenary power to deal with the corporation of the city of New Orleans at will. Barber Asphalt Paving Co. v. Gogreve, Sup.1889, 41 La. Ann. 251, 5 So. 848.

### 30. ---- Bridges and ferries

Act authorizing highway commission to grant exclusive franchise for toll bridge was not unconstitutional as a special law. Talbot v. Louisiana Highway Commission, 1925, 159 La. 909, 106 So. 377; Orr v. Louisiana Highway Commission, 1925, 159 La. 930, 106 So. 384; Louisiana Public Service Commission v. Louisiana Highway Commission, 1925, 159 La. 932, 106 So. 385.

Acts 1902, No. 202 (R.S. 33:1236), relative to the powers of police juries throughout the state, except that of the parish of Orleans providing that they should have exclusive privileges of establishing ferries and toll bridges, is not a local or special act in the sense of Const.1898, Art. 48. Blanchard v. Abraham, Sup.1906, 115 La. 989, 40 So. 379.

### 31. Taxation

Statute apportioning tax revenues raised within rural fire protection district fell within none of the constitutionally prohibited "local or special laws." Bayou Cane Volunteer Fire Dept. v. Terrebonne Parish Consol. Government, Sup.1989, 548 So.2d 915, rehearing denied.

The Legislature cannot enact a general or special laws exempting property from taxation. Op. Atty. Gen., No. 90-228, May 24, 1990.

### 32. Appropriations

Amendment to General Appropriation Bill which was an invalid local and special law which funded the offices of the assessor of Orleans Parish resulting in the abolishment of a constitutional office due to lack of funding was unconstitutional. Op. Atty. Gen., No. 85-619, August 19, 1985.

33. Regulation of labor, trade, manufacturing, or agriculture--In general

Acts 1894, No. 180 (R.S. 9:4802, 9:4806, 9:4812), giving workmen and material men certain rights against the owner, in cases of contracts in excess of \$1,000, unless a bond is required of the contractor to pay the claims of the former, which is applicable only to cities having 10,000 or more inhabitants, is not a special or local law, within Const.1879, Arts. 46, 47. *McKeon v. Sumner Building & Supply Co.*, Sup.1899, 51 La. Ann. 1961, 26 So. 430.

34. ---- Alcoholic beverages, regulation of labor, trade, manufacturing, or agriculture

If proposal, to prohibit sale of beverages containing 3.2 percent alcohol by weight and less, was favorably voted upon in parishwide election, trade, sale and manufacture of that product in parish would be prohibited by ordinance and penalties for violation of ordinance would attach and, therefore, effect of statute authorizing local option elections, was to enact special legislation regulating elections and trade and defining crimes, within proscription of subsecs. (1), (6), and (10) of this section and Const.1921, Art. 4, § 4. *Nomey v. State*, Through *Edwards*, Sup.1975, 315 So.2d 709.

Prohibition law was not unconstitutional, as local or special law. *State v. Schweitzer*, Sup.1928, 167 La. 81, 118 So. 699.

Acts 1916, No. 14, prohibiting sales of nonintoxicating and nonalcoholic malt liquors, was not violative of Const.1913, Art, 48, as to local or special laws. *State v. Kenny*, Sup.1917, 141 La. 594, 75 So. 422.

Acts 1915, Ex.Sess., No. 8 (R.S. 26:711-26:713 et seq.), prohibiting the keeping of a blind tiger, and providing for search for and seizure of intoxicating liquors, applying to every community in state where people have prohibited or may prohibit sale of intoxicating liquor, is not a "special or local" law within Const.1913, Arts. 48, 50. *State v. Nejin*, Sup.1917, 140 La. 793, 74 So. 103.

Rev.St. § 910, as amended by Acts 1902, No. 66, relating to the sale of intoxicating liquor and restricted so as to apply only to prohibition parishes, and Acts 1902, No. 107, as re-enacted by Acts 1908, No. 176, fixing the punishment for illegal sales of liquor, which apply only to nonprohibition parishes, are not local laws. *State v. Donato*, Sup.1910, 127 La. 393, 53 So. 662.

35. ---- Fishing, regulation of labor, trade, manufacturing, or agriculture

Legislature's classification of oyster lessees as exempt from public bid law pursuant to amendment was not unreasonable or improper; amendment did not constitute unconstitutional special legislation or unconstitutional attempt to ratify unauthorized acts. *Jurisich v. Hopson Marine Service Co., Inc.*, App. 4 Cir.1993, 619 So.2d 1111.

36. ---- Medicine and drugs, regulation of labor, trade, manufacturing, or agriculture

Acts 1888, No. 66 (R.S. 37:1171), is not unconstitutional, as violating Const.1879, Art. 46, in attempting to regulate business or

trade in that it is perfectly legitimate for the legislature as it does in such act to regulate trade and business in drugs and medicines. State v. Kumpfert, Sup.1905, 115 La. 950, 40 So. 365.

Acts 1894, No. 49, regulating the practice of medicine, and providing for the punishment of persons practicing without a certificate granted on an examination by a board, is not a special law, within Const.1879, Art. 46. Allopathic State Bd. of Medical Examiners v. Fowler, Sup.1898, 50 La. Ann. 1358, 24 So. 809.

37. ---- Mining, regulation of labor, trade, manufacturing, or agriculture

Portion of Louisiana Noncoal Surface Mining Law, exempting seven parishes, is unconstitutional local or special law; remaining portions of law are not nullified by severing this portion. Op. Atty. Gen., No. 93-7, July 9, 1993.

38. ---- Inspections, regulation of labor, trade, manufacturing, or agriculture

Acts 1888, No. 147, providing that no boat-load of coal or coke shall be sold in the state until it has been inspected, etc., is not in violation of Const.1879, Art. 46, prohibiting the general assembly from passing any local or special law regulating labor, trade, etc. State v. Pittsburg & S. Coal Co., Sup.1889, 41 La. Ann. 465, 6 So. 220.

39. ---- Interest rate, regulation of labor, trade, manufacturing, or agriculture

Acts 1928, Ex. Sess., No. 7 regulating business of making loans was not "local or special law" fixing rate of interest. State v. Hill, Sup.1929, 168 La. 761, 123 So. 317.

Const.1879, Art. 46, prohibiting the general assembly from passing any local or special law fixing the rate of interest, exclusively applies to contests between individuals, and does not apply to the regulation of interest on license taxes imposed by a municipal corporation. City of New Orleans v. Firemen's Ins. Co., Sup.1889, 41 La. Ann. 1142, 7 So. 82.

40. Corporations--In general

Acts 1890, No. 94, authorizing the Board of Administrators of the Tulane Education Fund, a private corporation, to lease, sell, or dispose of the property of the University of Louisiana, transferred to it by the state, being supplemental to Acts 1884, No. 43, which transferred such property to the board and provided that the property so transferred should not be sold or disposed of without legislative sanction, and purporting to provide the legislative sanction contemplated by the former act, is not unconstitutional as a local or special law, amending or extending the charter of a corporation, in violation of Const.1879, Art. 46. State v. Board of Adm'rs of Tulane Education Fund, Sup.1910, 125 La. 432, 51 So. 483.

41. ---- Charters, corporations

See also Notes of Decisions under Municipal Corporations, Nos. 43 to 47, 56.

Acts 1888, No. 134, providing for the appointment of an inspector with power, under the supervision of the board of health, to inspect throughout the state animals intended for food, and providing for his fees, is not in conflict with Const.1879, Art. 46, because it amends an act embodying the charter of a corporation, as the amendment is immaterial, and the act valid, if the amendment is stricken out. *State v. People's Slaughterhouse & Refrigerating Co.*, Sup.1894, 46 La. Ann. 1031, 15 So. 408.

The provision that private corporations shall not be created by special laws does not prohibit the amendment, by special act, of special charters previously granted. *Williams v. Western Star Lodge* No. 24, 1886, 38 La. Ann. 620.

No action can be maintained by the state to annul a special legislative act extending the charter of a corporation, claimed to be unconstitutional, until after the expiration of the time limited in its original charter. *State v. New Orleans Gaslight Co.*, 1873, 25 La. Ann. 398.

#### 42. ---- Liquidation, corporations

Acts 1915, No. 24, authorizing school directors of Caldwell parish to cause judicial liquidation of defunct corporation, is not violative of Const.1913, Art. 48, §§ 12, 13, 18, 20, relating to local or special laws. *Board of School Directors of Caldwell Parish v. Meridith*, Sup.1916, 140 La. 269, 72 So. 960.

#### 43. Municipal corporations--In general

Const.1898, Art. 48, prohibiting the amendment by local or special laws of the charters of municipal corporations, with the exception of those having a population of not less than 2,500 inhabitants, did not abridge the power of the General Assembly to enact general laws affecting the charters of the class of municipal corporations excepted. *City of Lake Charles v. Roy*, Sup.1906, 115 La. 939, 40 So. 362.

Acts 1896, No. 114, providing for the drainage of the city of New Orleans, and creating a board with corporate powers to effect the drainage, does not violate Const.1879, Art. 46, forbidding the enactment of local and special laws creating corporations or amending charters. *State v. Flower*, Sup.1897, 49 La. Ann. 1199, 22 So. 623.

#### 44. ---- Amendment of charter, municipal corporations

See also Notes of Decisions under Const. Art. 3, § 13.

Under Const.1898, Art. 48, prohibiting the general assembly from passing any local or special law creating or amending their charters, but providing that such inhibition should not apply to municipal corporations having a population of not less than 2,500, the general assembly may enact laws relating to the charters of cities and larger towns without previous publication of notice of intention to apply for

such legislation having been made. State ex rel. Fortier v. Capdevielle, Sup.1901, 104 La. 561, 29 So. 215.

A municipality having population of less than 2,500 could not amend its charter by a special legislative act, but only by method provided in R.S. 33:1181, by preparing proposed amendment to be published in newspaper, or posted in absence of newspaper published in municipality, submitting proposed amendment to the governor, and by obtaining approval of governor and attorney general and also of a majority of electors of municipality if protest is made to the amendment. Op.Atty.Gen. 1938-40, p. 656.

45. ---- Government, municipal corporations

Acts 1934, 3d Ex.Sess., No. 22, providing for appointment and election of additional police jurors was not made "local law" because of provisions applying to parish in which state capitol is located and because parish of Orleans was excepted. State ex rel. Porterie v. Smith, Sup.1935, 184 La. 263, 166 So. 72.

46. ---- Taxes, municipal corporations

Prohibition of special or local laws creating corporations or amending charters thereof was inapplicable to Acts 1935, 3rd Ex.Sess., No. 24, § 1(a), imposing license taxes on persons selling liquors at retail in parish of Orleans, in view of proviso excepting municipal corporations having over 2,500 inhabitants. State v. Cusimano, Sup.1937, 187 La. 269, 174 So. 352.

Acts 1908, No. 236, conferring on the town of Providence authority to issue bonds and levy a tax for their payment, is in violation of Const.1898, Art. 48, as special legislation, and void. Powell v. Town of Providence, Sup.1910, 127 La. 66, 53 So. 429.

Where Const.1898, Art. 229, provided that the general assembly shall have authority to provide that municipalities levying license taxes equal in amount to those levied by police juries for parochial purposes shall be exempted from the payment of such parochial licenses, and Art. 48 declared that the general assembly shall not pass any local or special law creating corporations, or renewing, extending, or explaining the charter thereof, provided this shall not apply to municipal corporations having a population of not less than 2,500 inhabitants, there was no conflict between the two articles, as the latter merely restricted the right granted by the former article to towns of not less than 2,500, and required that in such towns the privilege must be by a general law applicable alike to all municipalities of that class, and not a special law applicable to one, hence Acts 1900, No. 141, exempting the town of Washington from the payment of parochial licenses on the municipal authorities imposing a license equal to that of parish authorities, was void, the town having less than 2,500 inhabitants. Swords v. Baillio, Sup.1901, 105 La. 328, 29 So. 942.

Acts 1896, No. 90, authorizing the issue of municipal bonds based upon the special tax of five mills voted by the taxpayers of the town of Lafayette for the construction of waterworks and an electric light plant, and payable, principal and interest, out of the proceeds of such

tax, does not amend or extend the charter of the town in violation of Const.1879, Art. 46, and is valid. State ex rel. Ferguson v. Caffery, Sup.1897, 49 La. Ann. 1152, 49 La. Ann. 1748, 22 So. 756.

47. ---- Levee districts, municipal corporations

Acts 1926, No. 316 ratifying and confirming transfers of land by state to various levee districts is not unconstitutional as a local or special law. Barnett v. State Mineral Board, Sup.1939, 193 La. 1055, 192 So. 701.

Const.1913, Arts. 48, 50, relative to local and special laws, did not include levee districts which Arts. 238 and 239 thereof expressly authorized the General Assembly to create. Fenner v. Board of Com'rs of Red River, Atchafalaya and Bayou Boeuf Levee Dist., Sup.1915, 137 La. 557, 68 So. 953.

48. Property ownership

Legislative acts ratifying, quieting and confirming as legal and valid the title of drainage district to property acquired by it at tax sale, regulate general interest of political subdivision of state, apply to all whose lands were sold to district at tax sale, and operate equally and uniformly upon all brought within the relations and circumstances for which they provide, and thus constitute "public" or "general" acts, to which the prohibition of Const.1921, Art. 4, § 4 dealing with local or special laws has no application. Knapp v. Jefferson-Plaquemines Drainage Dist., Sup.1953, 224 La. 105, 68 So.2d 774.

49. Special rights, privileges, or immunities--In general

As long as privilege or immunity operates equally and fairly to those who engage in like transactions and affects alike all persons pursuing same business under same conditions, prohibition, in Const.1921, Art. 4, § 4, against granting special immunity for any corporation, association or individual is satisfied. Fruge's Heirs v. Blood Services, C.A.5 (La.)1975, 506 F.2d 841.

50. ---- Corporations, special rights, privileges, or immunities

The act of the legislature of Louisiana passed March 8, 1869, granting to a corporation created by it the exclusive right, for 25 years, to have and maintain slaughter houses, landings for cattle, and yards for inclosing cattle intended for sale or slaughter within the parishes of Orleans, Jefferson, and St. Bernard, and prohibiting all other persons from building, keeping, or having such establishments within those limits, and requiring that all cattle and other animals intended for sale or slaughter in that district should be brought to the yards and slaughter houses of the corporation, and authorizing the corporation to exact fees for the use of its wharves, and for each animal landed and slaughtered, although a grant of an exclusive right or privilege, is, notwithstanding, a police regulation which it was within the power of the state to enact, and does not contravene the constitution of the United States. In re Slaughter-House Cases, U.S.La.1872, 83 U.S. 36, 21 L.Ed. 394, 16 Wall. 36.

Because "affiliated bank" was neither subsidiary nor branch bank, statute that prohibited bank holding companies from opening new banks did not confer special privileges upon affiliated banks already operating in parish. *Whitney Nat. Bank in Jefferson Parish v. James*, App. 1 Cir.1966, 189 So.2d 430, application denied 249 La. 759, 191 So.2d 140.

A statute authorizing a certain class of corporations, upon compliance with its requirements, to become sureties on bonds, does not grant a special privilege. *Holmes v. Tennessee Coal, Iron & Railroad Co.*, Sup.1897, 49 La. Ann. 1465, 22 So. 403.

The legislature may grant to a corporation an exclusive right to maintain wharves along the banks of navigable rivers in the state and this is not a donation of public property to private uses, but a regulation of a public servitude. *City of New Orleans v. New Orleans, M. & C.R. Co.*, 1875, 27 La. Ann. 414.

51. ---- Elections, special rights, privileges, or immunities

The provision of the primary election law, Acts 1906, No. 49, by which the contributions of defeated candidates toward primary election expenses are not returned to them, whereas those of successful candidates are, does not violate Const.1898, Art. 48, prohibiting the granting of special privileges; it being an exercise of legislative discretion which courts cannot control. *State ex rel. Labauve v. Michel*, Sup.1908, 121 La. 374, 46 So. 430.

Primary Election Law, Acts 1906, No. 49, § 2, regulating primary elections throughout the state, and defining a political party to be one that shall cast at least 10 per cent of the votes cast for Governor at the last preceding election, did not violate Const.1898, Art. 48, forbidding the passage of local or special laws granting special privileges. *State ex rel. Labauve v. Michel*, Sup.1908, 121 La. 374, 46 So. 430.

52. ---- Employers' Liability Act, special rights, privileges, or immunities

Employers' Liability Act is not "special" within the intendment of Const.1913, Art. 48, forbidding the enactment of special or local laws. *Colorado v. Johnson Iron Works*, Sup.1919, 146 La. 68, 83 So. 381.

Employers' Liability Act is not a local or special law, and does not purport to grant any special or exclusive privilege or immunity to any corporation, association, or individual, or to any class thereof, within prohibition of Const.1913, Art. 48. *Day v. Louisiana Central Lumber Co.*, Sup.1919, 144 La. 820, 81 So. 328.

53. ---- Franchises, special rights, privileges, or immunities

Act authorizing highway commission to grant exclusive franchise for toll bridge was not unconstitutional as a special law. *Talbot v. Louisiana Highway Commission*, 1925, 159 La. 909, 106 So. 377; *Orr v. Louisiana Highway Commission*, 1925, 159 La. 930, 106 So. 384; *Louisiana Public Service Commission v. Louisiana Highway Commission*, 1925, 159 La. 932, 106 So. 385.

The grant of the use of streets to a street railway company is not in violation of Const.1879, Art. 46, and Const.1898, Art. 48, prohibiting the Legislature from granting any special immunity, since the grant is not of an immunity, a mere exemption, but of a franchise. Shreveport Traction Co. v. City of Shreveport, Sup.1908, 122 La. 1, 47 So. 40.

Acts 1902, No. 202 (R.S. 33:1236), relative to the powers of police juries throughout the state, except that of the parish of Orleans providing that they should have exclusive privileges of establishing ferries and toll bridges, is not a local or special act in the sense of Const.1898, Art. 48. Blanchard v. Abraham, Sup.1906, 115 La. 989, 40 So. 379.

An ordinance of a police jury authorizing a plank road company to operate a toll road, which was at the time a public highway, but for many years had been a toll road, is not violative of Const.1898, Art. 48, as conferring a monopoly on such company. St. Joseph Plank Road Co. v. Kline, Sup.1901, 106 La. 325, 30 So. 854.

The legislature has the power to grant an exclusive franchise to furnish a city with gas. Crescent City Gaslight Co. v. New Orleans Gaslight Co., 1875, 27 La. Ann. 138.

54. ---- Gambling, special rights, privileges, or immunities

Statute allowing only those pari-mutuel facilities in existence during particular horse racing season to have right to operate offtrack wagering parlors was not prohibited local or special law and was instead enacted in furtherance of general and public purpose, in light of benefit to state as a whole due to additional revenues and employment opportunities. Livingston Downs Racing Ass'n, Inc. v. State, Sup.1997, 96-2890 (La. 12/2/97), 705 So.2d 149, rehearing denied.

Statutes authorizing licensing of gaming operations were not unconstitutional "local" or "special" laws, even though their immediate application was limited as to parties and localities; issue was matter of state-wide concern, and legislature was entitled to determine that single facility or type of facility within state was in state's best interest. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Acts 1940, No. 276, § 7 (R.S. 4:148), providing for the regulation of horse racing and wagering thereon, insofar as they authorize wagering on horse races only when confined to race meeting grounds to be designated, licensed, and authorized by the racing commission and conducted by persons licensed by commission, are not unconstitutional as local or special legislation. State v. Saia, Sup.1947, 212 La. 868, 33 So.2d 665.

Acts 1920, No. 127, making it unlawful to encourage or assist any person to bet on a horse race outside the track or inclosure where the race takes place, was not local and did not confer any special privilege within Const.1921, Art. 4, § 4, prohibiting local or special laws granting special privileges, and did not discriminate against any one. State v. Mustachia, Sup.1922, 152 La. 821, 94 So. 408.

A provision of an ordinance as to gambling that the ordinance should not apply in certain cases was not violative of Const.1913, Art. 48, as conferring a "special or exclusive right, privilege, or immunity." *City of Baton Rouge v. Hubbs*, Sup.1915, 138 La. 63, 70 So. 38.

Legislature may permit gambling in the Superdome by constitutional amendment, local option legislation, or special legislation granting the power to permit gambling to the Louisiana Stadium & Exposition District. Op.Atty.Gen. No. 76- 1554, Jan. 7, 1977.

55. ---- Medical practice, special rights, privileges, or immunities

Acts 1914, No. 56 excepting certain classes from requirements of practitioners of medicine, does not contravene Const.1913, Art. 48, prohibiting grant of any special or exclusive right, privilege, or immunity. *Louisiana State Board of Medical Examiners v. Vincent*, 1916, 140 La. 411, 73 So. 250; *Louisiana State Board of Medical Examiners v. Charpentier*, 1916, 140 La. 405, 73 So. 248.

C.C. art. 1764, extinguishing all causes of action except negligence against blood banks and hospitals supplying whole blood and its components does not violate due process guarantee in Const.1921, Art. 1, §2 or prohibition against legislative creation of exclusive right or immunity to individual in Const.1921, Art. 4, § 4. *Fruge's Heirs v. Blood Services*, C.A.5 (La.)1975, 506 F.2d 841.

State Medical Practice Act (R.S. 37:1261 et seq.) was not in violation of due process or equal protection clauses of U.S.C.A. Const. Amend. 14, § 1, or Const.1921, Art. 1, §§ 2, 6, nor was it specific law attempting to grant corporation or association or some individual specific and exclusive right to prosecute alleged crimes which delegation was prohibited by Const.1921, Art. 4, § 4. *Louisiana State Bd. of Medical Examiners v. Patterson*, App. 2 Cir.1970, 236 So.2d 672.

56. ---- Municipal corporations, special rights, privileges, or immunities

Statute governing right to jury trial in litigation against City of Baton Rouge and Parish of East Baton Rouge was special law, as it singled out city and parish, to exclusion of all other political subdivisions, for special treatment without any suggested or apparent justification for disparate treatment, despite fact that all political subdivisions possessed requisite characteristics of class. *Kimball v. Allstate Ins. Co.*, Sup.1998, 97-2885, 97- 2956 (La. 4/14/98), 712 So.2d 46.

R.S. 15:574.15, giving elected state or parochial official power to parole persons arrested for violation of municipal ordinances and imposing penalty on officers of municipality who refuse to honor paroles, did not violate Const.1921, Art. 4, § 4, that the legislature should not pass any local or special law granting any corporation, association, or individual any special or exclusive right, privilege, or immunity. *City of New Orleans v. Borey*, 1951, 52 So.2d 728.

Acts 1902, No. 79, as amended by Acts 1904, Nos. 96, 179, compelling the parish of Orleans to erect a courthouse and providing that the state shall contribute towards the erection of the building and by part

owner thereof, does not grant a special or exclusive privilege within Const.1898, Art. 48, forbidding the legislature from passing any local or special law granting to pay corporation, association or individual any exclusive right, privilege or immunity. *Benedict v. City of New Orleans*, Sup.1905, 115 La. 645, 39 So. 792.

Acts 1896, No. 90 authorizing a certain municipal corporation, in order "to procure, construct and operate a waterworks and electric light plant," and in order to enable it to utilize a certain special tax theretofore voted for such purpose, to issue its bonds, signed by the mayor, conferred no authority to issue negotiable bonds as for "money borrowed," and "payable in coin," as the general assembly is without power, under Const.1879, Art. 46, pars, 12, 13, to confer such exclusive right or privilege on any particular corporation by special act. *State ex rel. Ferguson v. Caffery*, Sup.1897, 49 La. Ann. 1152, 49 La. Ann. 1748, 22 So. 756.

Const.1879, Art. 46, prohibiting legislation "granting to any corporation, association or individual, any special or exclusive right, privilege or immunity," has reference to private corporations, and is not applicable to municipal corporations. *State ex rel. Ferguson v. Caffery*, Sup.1897, 49 La. Ann. 1152, 49 La. Ann. 1748, 22 So. 756.

An ordinance of a city council which gives to one sect a privilege which it denies to another, violates both the constitution and the law, and is therefore null and void. *City of Shreveport v. Levy*, 1874, 26 La. Ann. 671, 21 Am. Rep. 553.

57. ---- Suits against state, special rights, privileges, or immunities

Act No. 676 of 1954, authorizing individual to sue State through department of highways did not violate Const.1921, Art. 4, § 4, proscribing granting special or exclusive rights to any individual by, in effect, granting right which had prescribed against department's insurer. *Tucker v. Marquette Cas. Co.*, App. 1 Cir.1962, 138 So.2d 25.

Const.1921, Art. 3, § 35, authorizing legislature to waive state's immunity from liability, does not conflict with prohibitions of Const.1921, Art. 4, § 4 against class legislation or transfer of state property, and in any case was superior to them. *Fullilove v. U. S. Cas. Co. of N. Y.*, App. 2 Cir.1961, 129 So.2d 816.

Mere fact that it was unnecessary for the legislature to authorize suit by landowner against department of highways to obtain payment for land taken by department of highways for highway purposes and for damages occasioned by taking did not render unconstitutional, under Const.1921, Art. 4, § 4, that legislature shall not pass any local or special law granting any special or exclusive rights, or privilege, or immunity, Act No. 463 of 1954, purporting to authorize filing of suit by landowner against department of highways and providing for a waiver of prescription. *Peart v. State Through Dept. of Highways*, App. 3 Cir.1960, 125 So.2d 673.

Statute authorizing particular individual to sue state or one of its agencies on claim was not subject to objection that it granted a special right or privilege, in violation of Const.1921, Art. 4, § 4, as

it added nothing to rights but simply gave permission to have rights judicially determined. *Stephens v. Natchitoches Parish School Bd.*, App. 2 Cir.1957, 96 So.2d 396.

A statute authorizing a particular individual to sue the state on a claim is not subject to the objection of Const.1921, Art. 4, § 4, that it grants a special right or privilege, as it adds nothing to his rights, simply giving him permission to have them judicially determined. *Carter v. State*, Sup.1897, 49 La. Ann. 1487, 22 So. 400.

#### 58. Schools----In general

Provision of Const. Art. 8, § 10 which empowers legislature to enact laws affecting school boards authorizes enactment of general legislation pertaining to school boards but does not provide an exception to prohibition under this section against local or special laws regulating management of parish public schools. *Caddo Parish School Bd. v. Board of Elections Sup'rs of Caddo Parish*, Sup.1980, 384 So.2d 448.

Acts 1915, No. 24, authorizing school directors of Caldwell parish to cause judicial liquidation of defunct corporation, is not violative of Const.1913, act. 48, §§ 12, 13, 18, 20, relating to local or special laws. *Board of School Directors of Caldwell Parish v. Meridith*, Sup.1916, 140 La. 269, 72 So. 960.

#### 59. ---- "Management of public schools" defined

"Management of public schools" within prohibition, in Const.1921, Art. 4, § 4, against enactment of local or special law regulating management of public schools has to do with propriety of school curriculums, methods of teaching, grade leveling, time schedules, classroom procedure and other matters directly related to control, guidance, direction, and management of parish schools themselves. *Jefferson Parish School Bd. v. Jefferson Parish Democratic Executive Committee*, Sup.1964, 246 La. 51, 163 So.2d 348.

#### 60. ---- School board members, schools

Const.1921, Art. 4, § 4, prohibiting enactment of local or special law for holding and conducting elections or for regulating management of schools was not violated by enactment of statute providing for election of members of Jefferson Parish School Board, setting forth parish division from which members should be elected, prohibiting certain conduct which might promote conflict of interest and providing for election of board president and for meetings; overruling *Mendel v. Gennaro*, 154 So.2d 531. *Jefferson Parish School Bd. v. Jefferson Parish Democratic Executive Committee*, Sup.1964, 246 La. 51, 163 So.2d 348.

Statute which governed school board of Jefferson parish only and provided for election of president of board annually was unconstitutional as prohibited local or special law. *Mendel v. Gennaro*, App. 4 Cir.1963, 154 So.2d 531, writ refused 244 La. 968, 155 So.2d 199.

School board membership is not office of profit but is office of trust under Const.1921, Art. 4, § 4, regarding local or special laws. Mendel v. Gennaro, App. 4 Cir.1963, 154 So.2d 531, writ refused 244 La. 968, 155 So.2d 199.

Statutory provisions, R.S. 17:121(D)(1 to 3), which make it a misdemeanor for any school board member or other elected official to campaign for or against the candidacy of any person for the office of school board member are unconstitutional under Const. Art. 3, § 12 prohibiting enactment of a local or special law. Op.Atty.Gen., No. 89-236, May 17, 1989.

61. ---- Debt, schools

Subdivisions (D) and (F) of R.S. 39:562 authorizing school districts to incur bonded indebtedness for construction or improvement of school facilities converted statute into impermissible local and special law in violation of this article when it reduced bond limit for all school districts in state from 35% to 25% but at same time reenacted 35% limit for school districts in four parishes, singling parishes out for different treatment, without relying on any objective criteria for doing so; and since those provisions could not be severed from those portions which reenacted higher bonded indebtedness rate for districts in a few parishes, they were unconstitutional in their entirety. Concerned Business and Property Owners of DeSoto, Inc. v. DeSoto Parish School Bd., Sup.1988, 531 So.2d 436, rehearing denied.

62. ---- Employment matters, schools

Statutes providing for teachers' retirement systems, are founded upon classification that embraces, with narrow exceptions, all teachers in state public schools and the classification is reasonable and applies uniformly to persons possessing the controlling characteristics of the class, employment as a teacher within public schools of state; thus the statutes are "general laws" and not subject to the limitations placed on passage of special laws by Const.1921, Art. 4, § 4. Teachers' Retirement System of Louisiana v. Vial, Sup.1975, 317 So.2d 179.

63. Legalizing unauthorized or invalid acts

Where unconstitutionality of Acts 1965, No. 100 intending to remedy any procedural defects of zoning ordinances previously passed by city was not pleaded in owner's answer to neighbor's suit for injunction against owner's violating zoning ordinances in building home and pleadings were not properly broadened by evidence to allow argument on appeal, reviewing court could not consider the contention of unconstitutionality. Adams v. Brian, App. 3 Cir.1968, 212 So.2d 128, writ refused 252 La. 880, 214 So.2d 549.

Acts 1942, No. 275, §§ 1 to 3, consenting to maintenance of suit against Cameron parish for accidental death of jail prisoner and authorizing payment of claim therefor out of general funds of parish does not violate prohibition of Const.1921, Art. 4, § 4, against "local or special law" legalizing unauthorized acts of officer or agent of state, parish or municipality. Hebert v. Miller, Sup.1944, 205 La. 105, 17 So.2d 1.

64. Crimes defined--In general

Criminal statute, general in its terms, though conditions under which it can operate prevail only in certain parts of state, is not "local or special law" within Const.1913, Arts. 48, 50. State v. McCue, 1917, 141 La. 417, 75 So. 100; City of Shreveport v. Nejin, 1917, 140 La. 785, 73 So. 996.

Former R.S. 14:110.2, proscribing escape from Louisiana State Penitentiary, was not unconstitutional as local or special law. State ex rel. Miller v. Henderson, Sup.1976, 329 So.2d 707.

Provision of this section prohibiting legislature from passing local or special law that defines any crime would not prohibit local governing authority from passing criminal ordinance for enforcement in its jurisdiction as valid exercise of its police power. Op.Atty.Gen., No. 76-218, February 18, 1976.

65. ---- Alcoholic beverages, crimes defined

If proposal, to prohibit sale of beverages containing 3.2 percent alcohol by weight and less, was favorably voted upon in parishwide election, trade, sale and manufacture of that product in parish would be prohibited by ordinance and penalties for violation of ordinance would attach and, therefore, effect of statute authorizing local option elections, was to enact special legislation regulating elections and trade and defining crimes, within proscription of subsecs. (1), (6) and (10) of this section and Const.1921, Art. 4, § 4. Nomey v. State, Through Edwards, Sup.1975, 315 So.2d 709.

66. ---- Vagrancy, crimes defined

Acts 1935, 2d Ex.Sess., No. 3, § 8.1, defining as vagrant any person offering to commit prostitution or to secure another for purpose of prostitution was substantive legislation and not violative of Const.1921, Art. 4, § 4, prohibiting local or special laws. State v. Martin, Sup.1936, 185 La. 1080, 171 So. 452.

67. ---- Child support, crimes defined

Acts 1902, No. 34 making it an offense to willfully and without just cause neglect to provide for the support of a minor child, does not violate Const.1898, Art. 48, prohibiting special or local laws, as the act is a general law effective throughout the state. State v. Clark, Sup.1920, 146 La. 421, 83 So. 696.

68. Indirect enactment of local or special laws--In general

Statute allowing political subdivisions to decide for themselves whether to allow jury trials in suits against them did not violate constitutional provision that legislature could not indirectly enact special or local laws by partial repeal or suspension of general law; statute was not local or special law, as it applied in every possible locality throughout state as well as to every political subdivision in state, and no political subdivision was excluded. Kimball v. Allstate Ins. Co., Sup.1998, 97-2885, 97-2956 (La. 4/14/98), 712 So.2d 46.

Acts 1880, No. 54, entitled "An act to carry into effect article 116, and provide the qualifications and for the selection of competent and intelligent jurors throughout the state," was not violative of Const.1879, Art. 47, on the ground that it enacts a special and local law by the partial repeal of a general law, since it applied throughout the state and to all cases falling within its terms. State v. Henderson, 1880, 32 La. Ann. 779.

69. ---- Taxes, indirect enactment of local or special laws

Acts 1935, 3rd Ex.Sess. No. 24, § 1(a), imposing license taxes on persons selling liquor at retail for consumption on premises in parish of Orleans was not unconstitutional as indirectly enacting special or local law by repeal of general law or partial repeal of special law. State v. Cusimano, Sup.1937, 187 La. 269, 174 So. 352.

70. ---- Police jurors, indirect enactment of local or special laws

If Acts 1934, 3d Ex.Sess., No. 22, providing for appointment and election of additional police jurors was both general and local, or special, it was not "local" or "special law" within provision of Const.1921, Art. 4, § 5, providing that legislature shall not indirectly enact special or local laws by partial repeal of general law. State ex rel. Porterie v. Smith, Sup.1935, 184 La. 263, 166 So. 72.

Act 1934, 3d Ex.Sess., No. 22, providing for appointment and election of additional police jurors did not violate Const.1921, Art. 4, § 5, providing that legislature shall not indirectly enact special or local laws by partial repeal of general law where act was general law which totally repealed general law on subject of police juries. State ex rel. Porterie v. Smith, Sup.1935, 184 La. 263, 166 So. 72.

Acts 1884, No. 76, conferring on police juries of the several parishes of the state and the municipal authorities of the several towns and cities thereof exclusive power to make rules and regulations for the sale of intoxicating liquors as a majority of the legal voters shall determine by ballot, did not contravene Const.1879, Art. 47, declaring that the general assembly shall not enact special or local laws by the partial repeal of a general law, in that the charter of Monroe, which granted it exclusive control over such traffic, was thus amended so that the police jury of the parish could control it; for the constitution permits the passage of laws repealing local or special acts, and the act in question merely accomplishes that result. Garrett v. Aby, Sup.1895, 47 La. Ann. 618, 17 So. 238.

71. ---- Municipalities, indirect enactment of local or special laws

Acts 1950, No. 94 (R.S. 15:574.15, 15:574.16), giving elected state or parochial officials power to parole persons arrested for violation of municipal ordinances and imposing penalty on officers of municipality who refuse to honor paroles, does not violate Const.1921, Art. 4, § 5, forbidding the legislature to enact special or local laws by partial repeal of a general law. City of New Orleans v. Borey, 1951, 52 So.2d 728.

Acts 1910, No. 76 (R.S. 33:4751), authorizing municipalities to adopt ordinance regulating construction and removal of buildings was not unconstitutional, as indirect enactment of local law partially repealing general law. Federal Land Bank of New Orleans v. John D. Nix, Jr., Enterprises, Sup.1928, 166 La. 566, 117 So. 720.

In view of Const.1913, Art. 49, prohibiting indirect enactment of special or local laws by partial repeal of general law, Acts 1914, No. 14 providing that appeals from city court of B. in misdemeanor cases shall lie to Supreme Court on questions of law alone where fine exceeding \$300 or imprisonment exceeding three months, did not repeal Acts 1900, No. 27, which is general statute as to appeals from city courts to district court. State ex rel. Saragusa v. Ott, Sup.1919, 144 La. 948, 81 So. 435.

Const.1898, Art. 49, providing that the General Assembly shall not indirectly enact special or local laws by the repeal of a general law, was not violated by the enactment of a special statute for the extension of a city's limits, when such statute did not amend the general law on the subject. Mulhaupt v. City of Shreveport, Sup.1910, 126 La. 780, 52 So. 1023.

LSA-Const. Art. 3, § 12

LA CONST Art. 3, § 12

END OF DOCUMENT

LA R.S. 15:31.1

LSA-R.S. 15:31.1

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 15. CRIMINAL PROCEDURE  
CHAPTER 1. CODE OF CRIMINAL PROCEDURE ANCILLARIES  
CODE TITLE III. THE CORONER AND OTHER OFFICERS

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 31.1. Antique slot machines

A. For the purposes of this Section, a slot machine is an antique if at least twenty-five years have elapsed since it was manufactured.

B. Notwithstanding any provisions of Section 31 of this Title, or R.S. 14:90.1, or any other provisions of law to the contrary, an antique slot machine may be owned and possessed in this state and shall not be subject to confiscation or destruction without a judgment of court as provided in this Section, but may be seized as evidence when operated for unlawful gambling purposes.

C. An antique slot machine, antique gambling device, or antique gaming machine seized as evidence in connection with unlawful gambling shall not be destroyed, altered, or sold until the owner has been afforded a reasonable opportunity to present testimony and other evidence in court

that his antique slot machine was not operated for unlawful gambling, and until the court determines by a final and definitive judgment that such slot machine was operated for unlawful gambling, in which event the court shall order the destruction of the slot machine. Otherwise, if the judgment is in favor of the owner, such antique slot machine shall be returned to its owner.

D. An antique slot machine may be owned, possessed, used, and operated in this state under the following conditions:

(1) Within a private dwelling, an antique slot machine may be owned, possessed, used, and operated, provided the operation of the machine is for the purpose of fostering esthetic interest, and the use of the machine does not subject a person to loss of money or property on the element of chance of winning money or property as a result.

(2) An antique slot machine may be offered for sale except at a place licensed to sell alcoholic beverages. When a machine is offered for sale it may be operated and used, provided a prospective buyer is not subjected to loss of money or property on the element of chance of winning money or property as a result.

(3) An antique slot machine, as an item of historic interest, may be presented for public viewing and inspection at any place, provided it is sealed and locked such that it is rendered inoperable and all openings for coin deposits and payouts are blocked.

E. It is the purpose of this Section to protect and foster the collection and restoration of antique slot machines not used for gambling purposes, due to their esthetic value and importance in Louisiana history.

CREDIT(S)

1992 Main Volume

Added by Acts 1981, No. 738, § 1, eff. July 23, 1981. Amended by Acts 1982, No. 214, § 1; Acts 1990, No. 987, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1992 Main Volume

The 1982 amendment, in subsec. A, substituted "at least twenty-five years has elapsed since it was manufactured" for "it was manufactured prior to October 1, 1950."

The 1990 amendment rewrote subsec. D, which had read:

"D. An antique slot machine may be displayed only in private dwellings or while offered for sale by a licensed retail dealer other than one licensed to sell alcoholic beverages. If a slot machine is displayed in any other manner, it shall not be subject to the provisions of Subsections B and C."

In subsec. D of this section as amended in 1990, commas were inserted following "used" in the introductory clause and in par. D(1), and "of" was inserted between "element" and "chance" in par. D(2), pursuant to the statutory revision authority of the Louisiana State Law Institute.

#### LIBRARY REFERENCES

##### 1992 Main Volume

Gaming k58.  
WESTLAW Topic No. 188.  
C.J.S. Gaming §§ 70, 78.

#### NOTES OF DECISIONS

Confiscation 2  
Contraband 1  
Private dwelling 3

##### 1. Contraband

Under Louisiana law, where insured legally possessed antique slot machines which were not used for gambling purposes, and had substantial interest in their preservation by reason of agreement to purchase them, slot machines were not "contraband" and insurer was required to reimburse insured after they were stolen prior to effective date of R.S. 15.31.1 relating to antique slot machines, notwithstanding that such slot machines were "gambling devices" within meaning of confiscation statute (R.S. 15.31). *Fine v. St. Paul Fire and Marine Ins. Co.*, E.D.La.1983, 567 F.Supp. 1252.

Antique slot machines which had their slots plugged and pay-out devices removed, but which could have been easily reconverted for gambling use, were "slot machines" within meaning of R.S. 15:31 defining slot machines as "gambling devices" subject to confiscation. *Fine v. St. Paul Fire and Marine Ins. Co.*, E.D.La.1983, 567 F.Supp. 1252.

##### 2. Confiscation

Although slot machine is contraband and subject to seizure, slot machine is protected from confiscation or destruction as antique if it was manufactured at least 25 years ago, is displayed either in private dwelling or while offered for sale by licensed retail dealer who is not licensed to sell alcoholic beverages, and is not operated for unlawful gambling purposes. *Alexander v. State Dept. of Public Safety and Corrections*, App. 5 Cir.1990, 572 So.2d 644, writ denied 575 So.2d 371.

##### 3. Private dwelling

Evidence supported conclusion that hall that was owned and operated by religious service organization and that was site of charitable event that included gambling was "private dwelling," and thus that antique slot machines were excepted from seizure as contraband; author of legislation dealing with antique machines stated that term was intended to refer to any type of dwelling that was neither public dwelling, public building, nor public facility, and organization was private

organization chartered as nonprofit charitable organization; moreover, statutory scheme governing gambling, gambling devices, and games of chance reflected legislative intent to make allowances and exceptions when activities were operated or performed under auspices of charitable organizations for charitable purposes. *Alexander v. State Dept. of Public Safety and Corrections*, App. 5 Cir.1990, 572 So.2d 644, writ denied 575 So.2d 371.

For purposes of determining whether antique slot machines used at religious service organization's charitable event were properly seized as contraband, evidence supported conclusion that event was bona fide affair conducted for charitable purposes and that no unlawful gambling took place; net proceeds from event were not for benefit of organization, but for charitable purposes, and organization obtained charitable gambling license, albeit after event ended and machines were seized. *Alexander v. State Dept. of Public Safety and Corrections*, App. 5 Cir.1990, 572 So.2d 644, writ denied 575 So.2d 371.

LSA-R.S. 15:31.1

LA R.S. 15:31.1

END OF DOCUMENT

LA R.S. 27:202

LSA-R.S. 27:202

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 5. THE LOUISIANA ECONOMIC DEVELOPMENT AND GAMING CORPORATION  
LAW  
PART I. LEGISLATIVE INTENT AND POLICY

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 202. Public policy of state concerning gaming

A. The legislature hereby recognizes that the gaming operations and activities are unique activities for state government and that a corporate structure will best enable the casino gaming to be managed in an entrepreneurial and business- like manner. It is the intent of the legislature that the Louisiana State Gaming Corporation shall be accountable to the governor, the legislature, and the people of the state through a system of audits, reports, and legislative oversight, and thorough financial disclosure as required by this Chapter.

B. The legislature hereby finds and declares to be the public policy of this state that:

(1) The development of a controlled gaming industry is important to the development of the economy of the state of Louisiana in that it will assist in the continuing growth of the tourism industry and thus will benefit the general welfare of our citizens.

(2) The growth and success of gaming is dependent upon public confidence and trust that gaming activities and, in particular, that casino gaming activities are conducted honestly and are free from criminal and corruptive elements.

(3) Public confidence and trust can only be maintained by strict regulation of all persons, practices, associations, and activities related to the operation of the official gaming establishment and the manufacture, supply, or distribution of gaming devices and supplies.

C. It is the express intent, desire, and policy of the legislature that no holder of the casino operating contract, applicant for a license, permit, contract, or other thing existing, issued, or let as a result of this Chapter shall have any right or action to obtain any license, permit, contract, or the granting of the approval sought except as provided for and authorized by this Chapter. Any license, permit, contract, approval, or thing obtained or issued pursuant to the provisions of this Chapter is expressly declared by the legislature to be a pure and absolute revocable privilege and not a right, property or otherwise, under the constitutions of the United States or of the state of Louisiana. Further the legislature declares that no holder acquires any vested right therein or thereunder.

D. The legislature hereby declares that notwithstanding any other laws of the state to the contrary, the state, through the Louisiana Economic Development and Gaming Corporation (hereafter referred to as the "corporation"), is hereby authorized to enter into a casino operating contract with a casino operator requiring the operator to provide for or furnish an official gaming establishment, to provide all items necessary for the conducting of gaming operations, and to conduct casino gaming operations at the official gaming establishment pursuant to the provisions of this Chapter.

E. Notwithstanding any other provision of this Chapter to the contrary, if the casino operating contract is extinguished before the end of its term through breach of contract by the casino operator, another contract may be entered into as provided for in this Chapter.

F. The legislature hereby directs that with respect to all design, engineering, construction, and maintenance contracts and/or projects undertaken by the contractor, or gaming corporation, the contractor and/or gaming corporation shall adopt written policies, procedures, and regulations to allow the participation of businesses owned by minorities in all such design, engineering, and construction contracts and/or projects. The legislature hereby further directs that the written policies, procedures, and regulations shall provide for the inclusion of businesses owned by minorities to the maximum extent practicable.

G. (1) All businesses or vendors selected by the contractor or the gaming corporation for any purpose shall strictly adhere to the nondiscrimination policies and practices embodied in applicable federal, state, and local law.

(2) Any business, vendor, and/or contractor selected by the gaming corporation to operate the casino contemplated herein shall, as nearly

as practicable, employ minorities consistent with the population of the state.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1992, No. 384, § 1.  
R.S. 4:602.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in R.S. 4:602 as enacted in 1992, "and" was inserted preceding "legislative oversight" in the second sentence of subsec. A.

R.S. 4:602 was redesignated as R.S. 27:202 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

NOTES OF DECISIONS

Contracts 2

Validity 1

1. Validity

Statutes authorizing licensing of gaming operations did not violate constitutional mandate to suppress gambling; legislature was entitled to define gambling and to exempt from that definition certain forms of gambling not prohibited by Constitution. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations did not unconstitutionally delegate legislative authority to executive branch of government. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations, which restricted collection of local taxes, did not unconstitutionally abrogate taxing powers granted to city of New Orleans pursuant to its home rule charter; gaming statutes were enacted pursuant to valid exercise of state's police power, and legislature was constitutionally empowered by general law to deny or revoke delegation of function or power to home rule government when necessary to prevent abridgment of state's police power. *Polk v. Edwards*, Sup.1993, 626 So.2d 1128.

Statute authorizing licensing of gaming operation did not unconstitutionally increase financial burden on city of New Orleans without appropriating funds to meet burden or authorizing city to raise additional revenue; statute did not mandate added expenses and constitutional provision was not intended to prohibit indirect effect

on community's coffers created by economic development legislation. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations were not unconstitutional "local" or "special" laws, even though their immediate application was limited as to parties and localities; issue was matter of state-wide concern, and legislature was entitled to determine that single facility or type of facility within state was in state's best interest. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

## 2. Contracts

Louisiana Economic Development and Gaming Corporation is obligated to negotiate casino operating contract in best interest of State, and has implied authority to bargain in casino operating contract negotiation process. Op.Atty.Gen. No. 94-143, June 8, 1994.

LSA-R.S. 27:202

LA R.S. 27:202

END OF DOCUMENT

LA R.S. 27:210

LSA-R.S. 27:210

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 5. THE LOUISIANA ECONOMIC DEVELOPMENT AND GAMING CORPORATION  
LAW  
PART III. CREATION OF CORPORATION, OFFICERS OF CORPORATION

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 210. Louisiana Economic Development and Gaming Corporation created;  
administration by corporation; management; domicile

A. There is hereby created and established a special corporation to be operated for a public purpose which shall be known as the Louisiana Economic Development and Gaming Corporation. The corporation shall be managed in such a manner that enables the people of the state to benefit from its operations and profits.

B. The state of Louisiana hereby grants to the Louisiana Economic Development and Gaming Corporation all powers and faculties necessary to perform the functions for which it is created, including the power of granting an exclusive contract to operate a casino gambling establishment in accordance with the provisions of this Chapter. It is further provided that the acts of a holder of a casino gaming operator's contract pursuant to exclusive rights vested in him by the Louisiana Economic Development and Gaming Corporation shall be deemed to be acts of the state of Louisiana for purposes of the Sherman Antitrust Act and other laws of the United States regulating commerce.

C. The existence of the corporation shall begin only upon confirmation of a majority of the members of the board by the Senate as provided in this Chapter. Until the time of such confirmation, no business shall be conducted on behalf of the corporation.

D. Any action taken on behalf of the corporation when less than a majority of the members of the board have been confirmed shall have no effect.

E. The corporation shall be domiciled in the parish of Orleans.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1992, No. 384, § 1.

R.S. 4:610.

R.S. 4:610 was redesignated as R.S. 27:210 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

LSA-R.S. 27:210

LA R.S. 27:210

END OF DOCUMENT

LA R.S. 27:58

LSA-R.S. 27:58

WEST'S LOUISIANA STATUTES ANNOTATED

LOUISIANA REVISED STATUTES

TITLE 27. LOUISIANA GAMING CONTROL LAW

CHAPTER 4. THE LOUISIANA RIVERBOAT ECONOMIC DEVELOPMENT AND GAMING CONTROL

ACT

PART III. GAMING ENFORCEMENT DIVISION

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 58. Division responsibilities

The division shall:

(1) Investigate the qualifications of each applicant before any license or permit is issued pursuant to the provisions of this Chapter.

(2) Issue, deny, condition, or restrict licenses and permits.

(3) Investigate violations of this Chapter and any regulations promulgated hereunder and other such violations of law relating to the conducting of gaming activities as the supervisor sees fit.

(4) Conduct all hearings concerning civil violations of this Chapter.

(5) Require all licensees to utilize a cashless wagering system, except for racehorse wagering and the play of slot machines, whereby all players' money is converted to tokens, electronic cards, or chips used only for wagering in the gaming establishment.

(6) Conduct continuing reviews of gaming activities through on-site observation and other reasonable means to assure compliance with this Chapter and regulations promulgated hereunder.

(7) Be entitled to request information, materials, and any other data from a licensee or permittee.

(8) Ensure that all licensees and permittees have the licenses and permits necessary to conduct any and all operations relating to the riverboat.

(9) Ensure that licenses or permits are not issued to or held by a disqualified person, and that there is no material involvement, directly or indirectly, with a licensee by a disqualified person in accordance with R.S. 27:76.

(10) Require the posting of one or more signs at points of entry to the designated gaming areas to inform customers of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling. Failure by the licensee to post and maintain such a sign or signs shall be cause for the imposition of a fine not to exceed one thousand dollars per day.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1991, No. 753, § 1.

Acts 1993, No. 200, § 1.

R.S. 4:518.

R.S. 4:518 was redesignated as R.S. 27:58 in 1996 and an attendant internal citation change was made, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

#### NOTES OF DECISIONS

#### Immunity 1

##### 1. Immunity

Discretionary acts defense, which granted public entities qualified immunity from liability when their acts involved elements of choice grounded in social, economic, or political policy, did not apply to alleged failing of Riverboat Gaming Enforcement Division to follow mandatory language in gaming enforcement statute. *Lambert v. Riverboat Gaming Enforcement Div.*, App. 1 Cir.1997, 96 1856 (La.App. 1 Cir. 12/29/97), 706 So.2d 172, writ denied 98-0297 (La. 3/20/98), 715 So.2d 1221.

LSA-R.S. 27:58

LA R.S. 27:58

END OF DOCUMENT

LA R.S. 4:212.1

LSA-R.S. 4:212.1

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 4. AMUSEMENTS AND SPORTS  
CHAPTER 4. RACING  
PART II. OFFTRACK WAGERING

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 212.1. Toll-free telephone assistance for compulsive gamblers;  
posting of signs on premises

The commission shall require the posting of one or more signs on licensed premises at each point of entry into areas where authorized gaming is conducted, authorized gaming devices are located, or authorized wagering on the results any horse race is conducted to inform patrons of a toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling. Failure by the owner of the licensed premises to post and maintain such a sign or signs shall be cause for the imposition of a fine not to exceed one thousand dollars per day.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1997, No. 1192, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

This section was enacted as R.S. 4:216.1 by Acts 1997, No. 1192, § 1. Pursuant to the statutory revision authority of the Louisiana State Law Institute, the section was redesignated as R.S. 4:212.1.

LSA-R.S. 4:212.1

LA R.S. 4:212.1

END OF DOCUMENT

LA R.S. 33:4852

LSA-R.S. 33:4852

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V. GAMBLING

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 4852. Parishes authorized to prohibit gambling with cards

Police juries may suppress and prohibit gambling with cards, or any card game by whatever name the game may be called, at which anything of value is pledged, bet, or hazarded. This Section shall not apply to any private game played in a private home occupied by a family as such, or game in private clubs, conducted without rake-off for gain.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1988 Main Volume

Source:

Acts 1918, No. 183, § 1.

LIBRARY REFERENCES

1988 Main Volume

Counties k21 1/2.

C.J.S. Counties § 49.

C.J.S. Zoning and Land Planning § 18 et seq.

NOTES OF DECISIONS

Construction of statute 1  
Ordinances, validity of 2  
Persons liable 3  
Validity of ordinances 2  
1. Construction of statute

Acts 1918, No. 183, § 1 (see, now, this section) authorizing police juries of parishes, municipalities excepted, to prohibit gambling with cards excluded territory within municipalities. *State v. Griffin*, 1927, 162 La. 635, 110 So. 885; *State v. Sage*, 1927, 162 La. 630, 110 So. 884.

Under Acts 1918, No. 183 (see, now, this section and R.S. 33:4853), police jury of Ouachita Parish could not pass an ordinance governing gambling in municipalities of Monroe or West Monroe. *Op. Atty. Gen.*, 1924-26, p. 415.

2. Ordinances, validity of

Ordinance prohibiting gambling with cards throughout parish was illegal under Acts 1918, No. 183, § 1 (see, now, this section) as applied to municipal corporations therein. *State v. Griffin*, 1927, 162 La. 635, 110 So. 885; *State v. Sage*, 1927, 162 La. 630, 110 So. 884.

Ordinance prohibiting certain gambling with cards was unconstitutional where its proscription of nonbusiness conduct as gambling exceeded legislative definition in state gambling statute, R.S. 14:90. (Per *Lemmon, J.*, joined by two Justices, with two Justices concurring.) *State ex rel. Corbello v. Bond*, Sup. 1983, 441 So.2d 742.

3. Persons liable

A provision of an ordinance as to gambling, that it should not apply in certain cases exempted no persons other than those "found playing games \* \* \* at a private residence occupied by a family (and used as such only)," even if it exempted such persons. *City of Baton Rouge v. Hubbs*, Sup. 1915, 138 La. 63, 70 So. 38.

LSA-R.S. 33:4852

LA R.S. 33:4852

END OF DOCUMENT

LA R.S. 4:149.4

LSA-R.S. 4:149.4

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 4. AMUSEMENTS AND SPORTS  
CHAPTER 4. RACING  
PART I. HORSE RACING

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 149.4. Toll-free telephone assistance for compulsive gamblers;  
posting of signs on premises

The commission shall require the posting of one or more signs on licensed premises at each point of entry into areas where authorized gaming is conducted, authorized gaming devices are located, or authorized wagering on the results of any horse race is conducted to inform patrons of a toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling. Failure by the owner of the licensed premises to post and maintain such a sign or signs shall be cause for the imposition of a fine not to exceed one thousand dollars per day.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1997, No. 1192, § 1.

<General Materials (GM) - References, Annotations, or Tables>

LSA-R.S. 4:149.4

LA R.S. 4:149.4

END OF DOCUMENT

LA R.S. 27:201

LSA-R.S. 27:201

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 5. THE LOUISIANA ECONOMIC DEVELOPMENT AND GAMING CORPORATION  
LAW  
PART I. LEGISLATIVE INTENT AND POLICY

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 201. Title and citation

This Chapter shall be cited and referred to as the "Louisiana Economic Development and Gaming Corporation Act".

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1992, No. 384, § 1.  
R.S. 4:601.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in R.S. 4:601 as enacted in 1992, the short title was enclosed in quotation marks.

Section 3 of Acts 1992, No. 384 (§ 1 of which enacted Chapter 10 of Title 4, now this chapter, and § 2 of which amended R.S. 14:90, both relating to casino gambling) provided:

"Notwithstanding any provision of law to the contrary, active members of the State Police Retirement and Pension Fund and the Louisiana State Employees' Retirement System who become Louisiana State Gaming Corporation officers or employees immediately after termination of state service may elect to continue to be active members of their retirement system for all purposes during their employment by the Louisiana State Gaming Corporation."

Chapter 4 of Subtitle II Title 11 of the Revised Statutes relates to the State Police Pension and Retirement System. The language of § 3 of Acts 1992, No. 384 is as it appears in the enrolled bill.

Section 1 of Acts 1993, No. 559 repeals § 3 of Acts 1992, No. 384, effective June 10, 1993. Section 2 of Acts 1993, No. 559 provides:

"The provisions of this Act shall not apply to any officer or employee of the Louisiana Economic Development and Gaming Corporation who, prior to the effective date of this Act, elected to continue as an active member of a state or statewide retirement system under the provisions of Section 3 of Act No. 384 of the 1992 Regular Session."

R.S. 4:601 was redesignated as R.S. 27:201 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

Title of Act:

An Act to enact Chapter 10 of Title 4 of the Louisiana Revised Statutes of 1950, comprised of R.S. 4:601 through 686, and to enact R.S. 14:90(E), to provide with respect to economic development and casino gaming; to establish the Louisiana Economic Development Gaming Corporation and to authorize it to provide for the conducting of casino gaming activities on behalf of the state of Louisiana in certain areas; to provide for definitions; to provide for the powers, duties, responsibilities, and authority of the corporation and its officers, employees, and agents; to provide for the letting of contracts or proposals to conduct gaming operations in parishes of certain population under certain conditions; to provide for certain financial matters; to provide for express resolatory conditions and damages for breach of a contract to operate a gaming casino; to provide for licensing of gaming operators, manufacturers, device owners, and employees, and service entities; to provide for procedural remedies

for persons affected by this Chapter; to provide for transportation of gaming devices and related items; to provide for collection, use, and disposition of proceeds from gaming activities; to provide for criminal penalties; to provide an exemption from gambling statutes; to appropriate money out of the state general fund for implementation; and to provide for related matters. Acts 1992, No. 384.

#### CROSS REFERENCES

Check-cashing facilities, restriction on location in vicinity of gaming establishment or riverboat gambling docking facility, see R.S. 6:423.

Gambling,

Legislative power to define and suppress, see Const. Art. 12, § 6.

Offenses, see R.S. 14:90

Pawnshops, restriction on location in vicinity of gaming establishment or riverboat gambling docking facility, see R.S. 37:1785.

Secondhand dealers, restriction on location in vicinity of gaming establishment or riverboat gambling docking facility, see R.S. 37:1861.2.

#### LAW REVIEW AND JOURNAL COMMENTARIES

States ante up: An analysis of casino gaming statutes. Victor J. Franckiewicz, Jr., 38 Loy.L.Rev. 1123 (1993).

#### LIBRARY REFERENCES

1999 Electronic Pocket Part Update

Gaming k3, 4.

States k84.

WESTLAW Topic Nos. 188, 360.

C.J.S. Gaming §§ 2, 50, 82.

C.J.S. States §§ 141 to 143, 165, 202.

#### UNITED STATES CODE ANNOTATED

Indian Gaming Regulatory Act, see 25 U.S.C.A. § 2701 et seq.

#### UNITED STATES SUPREME COURT

Indian commerce clause, congressional abrogation of states' sovereign immunity, suits in federal court to compel states to negotiate towards a gaming compact with Indian tribes, see Seminole Tribe of Florida v. Florida, U.S.Fla.1996, 116 S.Ct. 1114, 517 U.S. 44, 134 L.Ed.2d 252.

LSA-R.S. 27:201

LA R.S. 27:201

END OF DOCUMENT

LA R.S. 4:10

LSA-R.S. 4:10

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 4. AMUSEMENTS AND SPORTS  
CHAPTER 1. GENERAL PROVISIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 10. Game regulations

The operator of a game at any fair, carnival, or any other place where games of chance or skill are made available for pay, before and during operation, shall have and keep in a conspicuous place a sign stating the cost of a play and an explanation of how the game is played. The lettering on the sign shall be plain and not less than two inches in height. Signs or placards shall be of permanent material so they can be used from one fair to the next. A game shall be closed until compliance with this requirement occurs.

CREDIT(S)

1987 Main Volume

Added by Acts 1981, No. 918, § 1, eff. Aug. 2, 1981.

<General Materials (GM) - References, Annotations, or Tables>

CROSS REFERENCES

Regulation of gaming equipment, see R.S. 47:7001 et seq.

LIBRARY REFERENCES

1987 Main Volume

Gaming k6.

C.J.S. Gaming § 1 et seq.

LSA-R.S. 4:10

LA R.S. 4:10

END OF DOCUMENT

LA R.S. 27:372

LSA-R.S. 27:372

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 7. PARI-MUTUEL LIVE RACING FACILITY ECONOMIC REDEVELOPMENT AND  
GAMING CONTROL ACT  
PART II. CONDUCT OF SLOT MACHINE GAMING ACTIVITY  
SUBPART B. PROHIBITED ACTIVITIES

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 372. Slot machine gaming area limitations

A. The size of the designated gaming area in an eligible facility shall not exceed fifteen thousand square feet.

B. No gaming devices other than slot machines and authorized pari-mutuel wagering devices and equipment shall be in the designated slot machine gaming area.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1997, No. 721, § 1, eff. July 9, 1997.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

For date effective information, see italic note preceding R.S. 27:351.

LSA-R.S. 27:372

LA R.S. 27:372

END OF DOCUMENT

LA R.S. 27:42

LSA-R.S. 27:42

WEST'S LOUISIANA STATUTES ANNOTATED

LOUISIANA REVISED STATUTES

TITLE 27. LOUISIANA GAMING CONTROL LAW

CHAPTER 4. THE LOUISIANA RIVERBOAT ECONOMIC DEVELOPMENT AND GAMING CONTROL

ACT

PART I. GENERAL PROVISIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 42. Public policy of riverboat economic development and gaming activities

A. The legislature hereby finds and declares to be the public policy of this state that:

(1) The development of a historic riverboat industry is important to the economy of the state of Louisiana in that it will assist in the continuing growth of the tourism industry and thus will benefit the

general welfare of our citizens and create new jobs. It is the intent of this Chapter to utilize Louisiana resources, goods, and services in the operation and construction of riverboats to the extent allowable by law, as defined in this Chapter.

(2) An integral part of riverboat operation and profitability is the offering of regulated gaming, among other activities.

(3) The nature of the riverboat industry is such that the operation of riverboats on the waters of the state of Louisiana while allowing certain gaming activities will result in many benefits to the state with no significant detriment to the citizens of the state.

(4) Riverboats which conduct gaming activities thereon shall be licensed and supervised through the period of construction of the vessel continuing through to the operation of the vessel, and further gaming-related employees of such riverboats, gaming operators, manufacturers, suppliers, and distributors of gaming devices and equipment shall therefore be regulated, licensed, and controlled in such a manner as to accomplish and promote the above public policies in such a manner as to protect the public health, safety, morals, good order, and general welfare of our citizens.

(5) The riverboats or facilities in which licensed gaming is conducted are of vital law enforcement and social interest to the state, and it is in the public interest that the regulatory and investigatory powers and duties conferred by this Chapter include the power and duty to review architectural and construction plans to assure that a proposal is suitable by law enforcement, aesthetic and architectural standards.

B. It is the express intent, desire, and policy of the legislature that no gaming operator, applicant for a license, permit, or other thing existing, issued, or let as a result of this Chapter shall have any right of action to obtain any license, permit, or the granting of the approval sought except as provided for and authorized by this Chapter. Any license, permit, approval, or thing obtained or issued pursuant to the provisions of this Chapter is expressly declared by the legislature to be a pure and absolute revocable privilege and not a right, property or otherwise, under the constitutions of the United States or of the state of Louisiana. Further, the legislature declares that no holder of any license or permit acquires any vested interest or right therein or thereunder.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1991, No. 753, § 1.

Acts 1993, No. 572, § 1.  
R.S. 4:502.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in R.S. 4:502 as enacted in 1991, in the second sentence of par. A(1), "Chapter" was substituted for "Act".

R.S. 4:502 was redesignated as R.S. 27:42 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

#### NOTES OF DECISIONS

Construction with other law 1/2  
Preemption 2  
Purpose 3/4  
Assessments 1

##### 1/2. Construction with other law

Issue of whether parish zoning ordinance which restricted riverboat gaming activity within parish to certain locations was in direct violation of Riverboat Gaming Act because it allegedly purported to prohibit docking of casino on lake was not ripe for adjudication, where, although there was actual and substantial dispute between parties regarding operation of gambling company's riverboat from proposed docking site along river, there was nothing in record to suggest that company had sought approval or had been authorized to conduct riverboat gaming operations at any location along lake. *St. Charles Gaming Co., Inc. v. Riverboat Gaming Com'n*, Sup.1995, 94-2697 (La. 1/17/95), 648 So.2d 1310.

##### 3/4. Purpose

Purpose of Riverboat Economic and Gaming Control Act is to authorize, license, and control legislative gaming activities in riverboats on designated waterways in order to stimulate and promote growth of state's economy. *St. Charles Gaming Co., Inc. v. Riverboat Gaming Com'n*, Sup.1995, 94-2697 (La. 1/17/95), 648 So.2d 1310.

##### 1. Assessments

City could not assess a boarding fee on passengers boarding swamp tour excursion vessels within the city limits, but could assess a sales tax upon the services pursuant to the authority of Const. Art. 6, § 30, subject to limitations and requirements. *Atty.Gen. No. 92-458* (Sept. 4, 1992).

##### 2. Preemption

The Riverboat Economic Development and Gaming Control Act, specifically La. R.S. 4:552, prohibits local regulation, by zoning or otherwise, of riverboat gaming. *Op.Atty.Gen. No. 94-182*, June 20, 1994.

LSA-R.S. 27:42

LA R.S. 27:42

END OF DOCUMENT

LA R.S. 4:171

LSA-R.S. 4:171

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 4. AMUSEMENTS AND SPORTS  
CHAPTER 4. RACING  
PART I. HORSE RACING

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 171. Holding race meet without license; illegal wagering; penalties

A. Except as otherwise provided in this Chapter:

(1) No person shall directly or indirectly hold any horse race meeting with pari-mutuel pools or pools making wagering on the results, without having first been licensed by the commission.

(2) No person shall wager upon the results of a horse race, except in the pari-mutuel or mutuel method of wagering when conducted by a licensee upon its grounds or enclosure.

B. Whoever violates this Section, or any Section of this Chapter for which a penalty is not herein expressly provided, shall be fined not less than five hundred dollars nor more than one thousand dollars, or imprisoned for not less than ten days nor more than six months, or both.

CREDIT(S)

1987 Main Volume

Acts 1968, No. 554, § 1.

1999 Electronic Pocket Part Update

Amended by Acts 1990, No. 557, § 1, eff. July 19, 1990.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

In the section heading, as amended in 1990, "violations of this part;" was deleted; and "; penalties" was added, both on authority of R.S. 24:253.

1987 Main Volume

Source:

R.S. 4:159.

This section is a part of the amendment and reenactment of Part I by Acts 1968, No. 554, § 1. For disposition of the subject matter of the former sections of Part I, see italicized note and Table preceding R.S. 4:141.

Prior Laws:

Acts 1940, No. 276, § 18.

CROSS REFERENCES

Gambling, defined as an offense, see R.S. 14:90.

LAW REVIEW AND JOURNAL COMMENTARIES

Legalized gambling, the Louisiana State Racing Commission. 16 La.L.Rev. 437 (1956).

LIBRARY REFERENCES

1987 Main Volume

Gaming k4, 62 et seq.  
Theaters and Shows k9.  
C.J.S. Gaming § 1 et seq.  
C.J.S. Theaters and Shows § 58 et seq.

NOTES OF DECISIONS

Bookmakers 2  
Off-track betting 3  
Statute governing 1

1. Statute governing

Illegal betting on horse races may be prosecuted either under R.S. 14:90 prohibiting gambling or under penal provisions of Louisiana Horse Racing Act. Op.Atty.Gen., 1944-46, p. 110.

2. Bookmakers

In the absence of refusal to leave race track premises when requested to do so by track officials, convicted bookmaker has not violated any provision of law which would impose criminal sanctions on him for being present at the race track. *Bonomo v. Louisiana Downs, Inc.*, App. 2 Cir.1976, 337 So.2d 553.

3. Off-track betting

Corporation which for a fee accepted money to be legally bet as directed by its customers was not engaged in de facto off track betting in violation of LSA-R.S. 4:149 or 4:171, since corporation accepted no wagers on any horse race but merely accepted money to be bet and was a disinterested intermediary which assumed no monetary risk. *State v.*

Countdown, Inc., App. 4 Cir.1974, 305 So.2d 634, writ issued 309 So.2d 675, affirmed 319 So.2d 924.

LSA-R.S. 4:171

LA R.S. 4:171

END OF DOCUMENT

LA R.S. 33:4861.7

LSA-R.S. 33:4861.7

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 33. MUNICIPALITIES AND PARISHES  
CHAPTER 14. EXERCISE OF POLICE POWER  
PART V-A. CHARITABLE RAFFLES, BINGO AND KENO LICENSING LAW

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 4861.7. Issuance of special licenses

A. Notwithstanding any other provision of this Part to the contrary, the division and a municipal or parish governing authority may provide by rule or ordinance for the issuance of a special license for the conduct of no more than two bingo sessions annually at which the total amount of prizes which may be awarded on any one calendar day under such a license shall not exceed twenty- five thousand dollars in cash or other thing or things of value. Except as otherwise provided in this Section, all other provisions of this Part shall apply to the issuance of such special licenses.

B. No municipal or parish governing authority shall issue a special license to any organization as provided herein unless that organization has first obtained a special charitable gaming license from the division as further provided in R.S. 40:1485.5.

CREDIT(S)

1988 Main Volume

Added by Acts 1968, No. 609, § 1. Amended by Acts 1986, No. 752, § 1, eff. July 8, 1986.

1999 Electronic Pocket Part Update

Amended by Acts 1993, No. 515, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1988 Main Volume

The 1986 amendment rewrote the section heading and the section which had provided:

"§ 4861.7. Duration of license

"No license for the holding, operation or conduct of any game or games of chance shall be issued under this Part which shall be effective for a period of more than one year."

LSA-R.S. 33:4861.7

LA R.S. 33:4861.7

END OF DOCUMENT

LA R.S. 27:224

LSA-R.S. 27:224

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 5. THE LOUISIANA ECONOMIC DEVELOPMENT AND GAMING CORPORATION  
LAW  
PART IV. OPERATIONS OF CORPORATION IN GENERAL

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 224. Acceptance and expenditure of monies by corporation;  
corporation to be self-sustaining and self-funded

A. The corporation may accept and expend, in accordance with the provisions of this Chapter, such monies as may be appropriated by the legislature or such monies as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes.

B. After the repayment of any appropriated funds provided to the corporation by the state, the corporation shall be self-sustaining and self-funded. Monies in the state general fund shall not be used or obligated to pay the expenses of the corporation except for those appropriated to the corporation for the implementation of provisions of this Chapter.

C. No obligation of the corporation shall be subject to or backed by the full faith and credit of the state or the state treasury. In addition, the state of Louisiana and all political subdivisions of the state shall be immune from liability and from suit for any action or failure to act which arises from the creation, operation, contractual obligations, or delictual or quasi delictual obligations of the Louisiana Economic Development and Gaming Corporation either due to an act or omission of the state, a political subdivision of the state, or the corporation itself.

D. The governor by executive order, subject to legislative approval either by vote or by mail ballot, or the legislature by Act or

Resolution may set aside or order that the corporation renegotiate the provisions of the casino operating contract of a casino operator who is voluntarily or involuntarily placed in bankruptcy, receivership, conservatorship, or similar status. Any action so taken shall constitute the revocation or modification of a pure and absolute revocable privilege as provided in R.S. 27:202(C). Neither the state of Louisiana nor any political subdivision thereof shall be liable in damages for such revocation, modification, or order for renegotiation.

E. The governor by executive order or the board overseeing the operation of the casino, subject to legislative approval either by vote or by mail ballot, or the legislature by Act or Resolution may negotiate a new casino operating contract.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996. Amended by Acts 1996, 1st Ex.Sess., No. 58, § 1, eff. May 9, 1996.

<General Materials (GM) - References, Annotations, or Tables>

CONSTRUCTION AND APPLICATION

<The first section of Acts 1996, 1st Ex.Sess., No. 58, effective May 9, 1996, amended this section relative to governmental immunity and to negotiation of casino operating contracts. Section 2 of Acts 1996, 1st Ex.Sess., No. 58 provides:>

<"The provisions of this Act are not intended to make any change in the law, but are intended to clarify the intent of the legislature when it enacted Act No. 384 of the 1992 Regular Session of the Legislature. To that end, the provisions of this Act are declared to be remedial and shall have application from June 18, 1992, the effective date of Act No. 384 of the 1992 Regular Session of the Legislature.">

<Acts 1992, No. 384 enacted the Louisiana Economic Development and Gaming Corporation Law (R.S. 4:601 et seq.; now redesignated as R.S. 27:201 et seq.), including this section within its scope.>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1992, No. 384, § 1.  
R.S. 4:624.

Section 4 of Acts 1992, No. 384 (§ 1 of which enacted Chapter 10 of Title 4 (now this chapter), and § 2 of which amended R.S. 14:90, both relating to casino gambling) provided:

"There is hereby appropriated out of the general fund of the state of Louisiana for the Fiscal Year 1992-1993 the sum of two million five hundred thousand dollars (\$2,500,000) to the Louisiana State Gaming Corporation for implementation of the provisions R.S. 4:601 et seq.

The corporation shall repay the amount appropriated to it from the receipts of gaming operations."

Acts 1996, 1st Ex.Sess., No. 58 amended this section relative to governmental immunity and to negotiation of casino operating contracts. The amendment added, to subsec. C, the second sentence, relating to governmental immunity; and added subsecs. D and E relating, respectively, to the authority of the governor and legislature to set aside or renegotiate a casino operating contract in the case of bankruptcy, receivership, etc., and authorizing the governor and legislature to negotiate a new casino operating contract.

R.S. 4:624 was redesignated as R.S. 27:224 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute. Pursuant to the same authority, also in 1996, an internal citation change was made.

#### NOTES OF DECISIONS

Construction and application 1  
Construction with other laws 2  
Contracts 3

##### 1. Construction and application

Statute granting governor, subject to legislative approval, or legislature, acting alone, right to negotiate new casino operating contract does not apply to renegotiated contracts, which are statutorily governed by Gaming Control Board. *Jordan v. Louisiana Gaming Control Bd.*, Sup.1998, 98-1122, 98-1133, 98-1134 (La. 5/15/98), 98-1133 La. 5/15/98, 98-1134 La. 5/15/98, 712 So.2d 74.

##### 2. Construction with other laws

Statute granting legislature power to set aside or to order Board to renegotiate casino operating contract when, inter alia, casino operator was voluntarily placed into bankruptcy did not, by implication, repeal statute granting authority to the Gaming Control Board to set aside or renegotiate casino operating contract on its own initiative when operator was placed in bankruptcy; statutes provided alternate means for the initiation of renegotiations or for the setting aside of the existing operating contract. *Jordan v. Louisiana Gaming Control Bd.*, Sup.1998, 98-1122, 98-1133, 98-1134 (La. 5/15/98), 98-1133 La. 5/15/98, 98-1134 La. 5/15/98, 712 So.2d 74.

Statute granting governor, subject to legislative approval, or legislature, acting alone, right to negotiate new casino contract did not, by implication, repeal statute granting authority to the Gaming Control Board to set aside or renegotiate casino operating contract on its own initiative when operator was placed in bankruptcy; former statute could be construed to apply only to new, as opposed to renegotiated, contracts. *Jordan v. Louisiana Gaming Control Bd.*, Sup.1998, 98-1122, 98-1133, 98-1134 (La. 5/15/98), 98-1133 La. 5/15/98, 98-1134 La. 5/15/98, 712 So.2d 74.

##### 3. Contracts

Gaming Control Board had independent authority to renegotiate and execute casino operating contract with successor to debtor in possession of casino operating contract without gubernatorial or legislative approval; contract with bankruptcy debtor in possession was not a new contract governed by statutory authority of governor, with legislative approval, or legislature acting alone, but a renegotiated contract governed by statutory authority of Gaming Control Board. Jordan v. Louisiana Gaming Control Bd., Sup.1998, 98-1122, 98-1133, 98-1134 (La. 5/15/98), 98-1133 La. 5/15/98, 98-1134 La. 5/15/98, 712 So.2d 74.

Casino operating contract entered into by successor in interest to bankrupt debtor in possession of original operating contract was renegotiated contract governed by statutory authority granted to Gaming Control Board; although contract had new provisions, agreement essentially created a suretyship securing obligations of operator under initial contract. Jordan v. Louisiana Gaming Control Bd., Sup.1998, 98-1122, 98-1133, 98-1134 (La. 5/15/98), 98-1133 La. 5/15/98, 98-1134 La. 5/15/98, 712 So.2d 74.

Inclusion or substitution of different casino operator as a result of original operator's bankruptcy did not render casino operating contract a "new" one within meaning of statute granting governor, subject to legislative approval, or legislature, acting alone, right to negotiate new casino operating contract, where original contract authorized, subject to approval by Gaming Control Board, amendment of terms of the contract by the Board and operator, as well as its assignment or transfer by operator to a new entity. Jordan v. Louisiana Gaming Control Bd., Sup.1998, 98-1122, 98-1133, 98-1134 (La. 5/15/98), 98-1133 La. 5/15/98, 98-1134 La. 5/15/98, 712 So.2d 74.

LSA-R.S. 27:224

LA R.S. 27:224

END OF DOCUMENT

LA R.S. 14:92

LSA-R.S. 14:92

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 14. CRIMINAL LAW  
CHAPTER 1. CRIMINAL CODE  
PART V. OFFENSES AFFECTING THE PUBLIC MORALS  
SUBPART B. OFFENSES AFFECTING GENERAL MORALITY  
2. OFFENSES AFFECTING THE HEALTH AND MORALS OF MINORS

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 92. Contributing to the delinquency of juveniles

A. Contributing to the delinquency of juveniles is the intentional enticing, aiding, soliciting, or permitting, by anyone over the age of

seventeen, of any child under the age of seventeen, and no exception shall be made for a child who may be emancipated by marriage or otherwise, to:

(1) Beg, sing, sell any article or play any musical instrument in any public place for the purpose of receiving alms.

(2) Associate with any vicious or disreputable persons, or frequent places where the same may be found.

(3) Visit any place where beverages of either high or low alcoholic content are the principal commodity sold or given away.

(4) Visit any place where any gambling device is found, or where gambling habitually occurs.

(5) Habitually trespass where it is recognized he has no right to be.

(6) Use any vile, obscene or indecent language.

(7) Perform any sexually immoral act.

(8) Absent himself or remain away, without authority of his parents or tutor, from his home or place of abode.

(9) Violate any law of the state or ordinance of any parish or village, or town or city of the state.

(10) Visit any place where sexually indecent and obscene material, of any nature, is offered for sale, displayed or exhibited.

(11)(a) Become involved in the commission of a crime of violence as defined in R.S. 14:2(13) which is a felony or a violation of the Uniform Controlled Dangerous Substances Law which is a felony.

(b) Become involved in the commission of any other felony not enumerated in Subparagraph (a) of this Paragraph.

B. Lack of knowledge of the juvenile's age shall not be a defense.

C. Whoever commits the crime of contributing to the delinquency of a juvenile shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

D. Whoever is charged and convicted of contributing to the delinquency of a juvenile under Paragraph (7) of Subsection A of this Section shall be fined not more than one thousand dollars, or imprisoned with or without hard labor for not more than two years, or both.

E. (1) Whoever is charged and convicted of contributing to the delinquency of a juvenile under Subparagraph (a) of Paragraph (11) of Subsection A of this Section shall be imprisoned at hard labor for not less than two years and for not more than ten years or imprisoned according to the sentence of imprisonment for the underlying felony, whichever is less.

(2) Whoever is charged and convicted of contributing to the delinquency of a juvenile under Subparagraph (b) of Paragraph (11) of Subsection A of this Section shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

#### CREDIT(S)

#### 1986 Main Volume

Amended by Acts 1962, No. 394, § 1; Acts 1966, No. 481, § 1; Acts 1966, No. 532, § 1; Acts 1968, No. 486, § 1; Acts 1968, No. 647, § 1, eff. July 20, 1968, at 1:30 P.M.; Acts 1976, No. 121, §§ 1, 2.

#### 1999 Electronic Pocket Part Update

Amended by Acts 1993, No. 526, § 1; Acts 1994, 3rd Ex.Sess., No. 74, § 1; Acts 1995, No. 1290, § 1.

<General Materials (GM) - References, Annotations, or Tables>

#### REPORTER'S COMMENT

#### 1986 Main Volume

#### Louisiana statutes covered:

Acts 1916, No. 139, § 1 (contributing to the delinquency and neglect of children).

Acts 1918, No. 169, § 1 (contributing to the delinquency and neglect of children).

Acts 1918, No. 169, § 2 (repealing clause).

#### Jurisdiction of juvenile court:

See Reporter's Comment, R.S. 14:81, on indecent behavior with juveniles.

#### Scope:

This section represents substantially the former law.

#### HISTORICAL AND STATUTORY NOTES

#### 1999 Electronic Pocket Part Update

The 1993 amendment added a comma after "aiding" in the introductory paragraph of subsec. A, and added par. A(11); and subsec. E.

The 1994 amendment rewrote par. A(11), added a new paragraph designated as par. E(1), and designated the existing text of subsec. E as par. E(2), inserting "Subparagraph (b) of" and deleting a comma which had followed "one thousand dollars". Prior to the 1994 amendment, par. A(11) read:

"(11) Become involved in the commission of a felony."

The 1995 amendment, in subsec. A, inserted "soliciting," following "aiding" in the introductory paragraph.

In 1995, pursuant to the statutory revision authority of the Louisiana State Law Institute, a period was substituted for "; or" at the end of pars. A(1) to (9).

1986 Main Volume

Source:

Acts 1942, No. 43, § 1, No. 92.

Acts 1948, No. 388, § 1.

The 1962 amendment added to subsec. A that no exception shall be made for a child who may be emancipated by marriage or otherwise.

Acts 1966, No. 481, § 1, substituted "beverages of either high or low alcoholic content" for "spirituous or intoxicating liquors" in par. A(3) and increased the maximum fine from \$500 to \$1000.

Acts 1966, No. 532, § 1, added par. A(10).

Acts 1968, No. 486, § 1, purported to amend par. A(3) but made no change in the text; in par. A(8), inserted "or remain away"; and in subsec. C, substituted "juvenile" for "juvenil" and "the parish prison" for "Parish Prison".

Acts 1968, No. 647, § 1, in subsec. C, substituted "juvenile" for "juvenil"; and inserted "with or without hard labor" preceding "or both".

Section 5 of Acts 1968, No. 647 (§ 1 of which amended this section) provides as follows:

"This Act amends the penalty clauses of the crimes covered herein. Upon the effective date of this Act it shall govern all prosecutions regardless of when the offense was committed, for crimes where the penalty is reduced.

"Where the crime has been changed to a felony by amendment of the penalty clause, the amendment shall only be effective as to crimes committed after this Act becomes effective; and such offenses, when committed before this Act becomes effective, shall be governed by law in effect at the time the crime was committed."

On authority of R.S. 24:253, the conflicting provisions of par. A(8) and subsec. C as set forth in Acts 1968, No. 486 and Acts 1968, No. 647 were all printed.

The 1976 amendment settled the conflict in par. A(8) by adopting the version as amended by Acts 1968, No. 486; in subsec. C, substituted "five hundred dollars, or imprisoned for not more than six months" for "one thousand dollars, or imprisoned for not more than two, years with or without hard labor"; and added subsec. D.

## CROSS REFERENCES

Juvenile jurisdiction over adults, see Ch.C. art. 307.

Sexual offenses, see R.S. 14:80 et seq.

## LAW REVIEW AND JOURNAL COMMENTARIES

Bringing order to a disorderly place. 38 La.L.Rev. 1117 (1978).

Contributing to delinquency of a juvenile--Interpretation of "child".  
36 Tul.L.Rev. 138 (1961).

Conviction, declared or adjudicated delinquency of minor not  
prerequisite. 5 La.L.Rev. 332 (1943).

Criminal law--

Work of Louisiana appellate courts, 1977-1978. John S. Baker, Jr.,  
39

La.L.Rev. 771 (1979).

Work of Louisiana Legislature for 1976 regular session. 37 La.L.Rev.  
151  
(1976).

## LIBRARY REFERENCES

1986 Main Volume

Infants k13.

C.J.S. Infants §§ 5, 92, 93, 95 to 98.

## NOTES OF DECISIONS

In general 2

Admissibility of evidence 10

Child 4

Civil actions 14

Evidence

    Evidence - Admissibility 10

    Evidence - Weight and sufficiency 11                      Gambling 6

Indictment and information 8

Instructions 12

Intent 3

Intoxicating liquors 5

Jurisdiction 9

Review 15

Sentence and punishment 13

Sexual immorality 7

Validity 1

Weight and sufficiency of evidence 11

1. Validity

Though the 1968 Legislature in the same year enacted two inconsistent  
penalty provisions with respect to contributing to the delinquency of a  
juvenile, this section proscribing such offense contained only one

effective penalty provision, namely, the act which was the latest expression of the legislative will, and thus such offense was punishable under a valid statute. State v. Elias, Sup.1978, 357 So.2d 275.

Since knowledge of juvenile's age is not an essential element of the offense contributing to the delinquency of a juvenile, this section providing that lack of knowledge of juvenile's age shall not be a defense does not relieve the state of the burden of proving, nor preclude defendant from presenting a defense on, an essential of the crime charged and thus is not in derogation of defendant's constitutional right to be presumed innocent until proven guilty. State v. Elias, Sup.1978, 357 So.2d 275.

This section is not unconstitutionally overbroad or vague. State v. Tucker, Sup.1978, 354 So.2d 1327.

Term "sexually immoral act" as used in this section relating to contributing to delinquency of juveniles was not so vague and indefinite as to be unconstitutional. State v. Willis, Sup.1969, 253 La. 893, 221 So.2d 39.

This section defining crime of contributing to delinquency of juveniles as intentional enticing, aiding, or permitting, by anyone over age of seventeen, of any child under age of seventeen to "perform any sexually immoral act" was intended to limit offense to immoral acts involving sex, and words "sexually immoral" have accepted meaning that is not susceptible to misunderstanding, enabling accused to defend himself of crime charged, and the statute is constitutional. State v. Fulmer, Sup.1967, 250 La. 29, 193 So.2d 774.

Former Cr.Code, art. 92, subd. 7, defining "contributing to the delinquency of a juvenile" as the intentional enticing, aiding or permitting, by any one over the age of 17, of any child under the age of 17, to perform any "immoral" act was unconstitutional because of vagueness, indefiniteness, and uncertainty as to what constituted "immoral". State v. Vallery, Sup.1948, 212 La. 1095, 34 So.2d 329.

## 2. In general

Parents may be guilty of misdemeanor for violation of Acts 1916, No. 139, in contributing to delinquency of their children under 17 years old by permitting them to enter places where their morals may be corrupted, endangered or impaired, though such children have not thereby become delinquent in fact. State v. Scallan, Sup.1942, 201 La. 1026, 10 So.2d 885.

## 3. Intent

Only general criminal intent is required as an essential element of the crime of contributing to the delinquency of a juvenile. State v. Phillips, Sup.1982, 412 So.2d 1061.

Mens rea required by this section is general criminal intent, not specific criminal intent. State v. Elias, Sup.1978, 357 So.2d 275.

In this section defining the offense of contributing to delinquency of minor as the "intentional" enticing, aiding, or permitting of a minor to do proscribed acts, "intentional" denotes general criminal intent, and that act was intentional does not need to be alleged in bill of information. State v. Hardy, Sup.1957, 232 La. 920, 95 So.2d 499.

#### 4. Child

Married female, although under age of 17, was not "child" within this section defining crime of contributing to delinquency of child under age of 17. State v. Gonzales, Sup.1961, 241 La. 619, 129 So.2d 796.

In ascertaining scope of this section defining offense of contributing to delinquency of child under age of 17, it is presumed that legislature used word "child" in its ordinary accepted meaning under civil law, that of juvenile subject to parental control or guardianship, and not including minor emancipated by marriage. State v. Gonzales, Sup.1961, 241 La. 619, 129 So.2d 796.

R.S. 13:1569, enlarging scope of juvenile court's jurisdiction over delinquents or neglected children so as to include minors emancipated by marriage did not effect change in existing criminal statute (this section) defining offense of contributing to delinquency of child under age of 17. State v. Gonzales, Sup.1961, 241 La. 619, 129 So.2d 796.

#### 5. Intoxicating liquors

Persons contributing to child's intoxication for which she was adjudged delinquent, by giving her single drink of intoxicating liquor, violated Acts 1918, No. 169. State v. McCain, Sup.1929, 168 La. 87, 121 So. 583.

Refusal to charge that defendants could not be convicted under Acts 1918, No. 169, of contributing to child's delinquency, on evidence that they gave her one drink of intoxicating wine, was not error. State v. McCain, Sup.1929, 168 La. 87, 121 So. 583.

#### 6. Gambling

If an organization validly holds a license under Louisiana's Charitable Raffles. Bingo and Keno Licensing Law (R.S. 33:4861.1 through 33:4861.16), then those persons would not be in violation of paragraph (4) of this section by allowing minors to be present on the premises where a bingo game is conducted or by allowing minors to participate in such bingo game. Op.Atty.Gen., No. 77-1657, Dec. 21, 1977.

Permitting juveniles to gamble constitutes contributing to delinquency of juveniles. Op.Atty.Gen., 1950-52, p. 24.

Public schools could not conduct games of "bingo" and "cake walk" in order to obtain athletic equipment without violating former Cr.Code, art. 90 (see, now, R.S. 14:90) and if children under 17 years of age were present, they would also violate former Cr.Code, art. 92 (see, now, this section) relative to contributing to delinquency of juveniles. Op.Atty.Gen., 1946-48, p. 126.

A person who permits children under 17 years of age to visit any place where any gambling device is found or where gambling habitually occurs is guilty of contributing to the delinquency of juveniles. Op.Atty.Gen., 1944-46, p. 350.

#### 7. Sexual immorality

Phrase "entice to perform a sexually immoral act" in statute proscribing contributing to delinquency of a juvenile, adequately gives person of ordinary intelligence fair notice of what conduct is forbidden. State v. Roger, App. 3 Cir.1993, 616 So.2d 830, writ denied 623 So.2d 1303.

Conviction of contributing to delinquency of juvenile was supported by evidence that defendant enticed his daughter to expose her breasts and vagina to him. State v. Roger, App. 3 Cir.1993, 616 So.2d 830, writ denied 623 So.2d 1303.

Where charge of having contributed to delinquency of a juvenile by aiding a sixteen year old girl to perform an act of sexual intercourse was based on unconstitutional statute [former Cr.Code, art. 92(7) (see, now, this section) ], defining contribution to delinquency as intentional aiding of any child under age of seventeen to perform an immoral act, conviction was void. State v. Stewart, Sup.1948, 214 La. 365, 37 So.2d 820.

Under former Cr.Code, art. 92, subd. 7 (see, now, this section), defining "contributing to the delinquency of a juvenile" as the intentional enticing, aiding, or permitting, by anyone over the age of 17, of any child under the age of 17 to perform any "immoral" act, judiciary could not assume to decide what constituted an "immoral" act within concept of community's accepted standard of "immoral" since to do so would be an assumption of a legislative function, with result among others that equal protection and due process clauses safeguarding against discrimination would be violated. State v. Vallery, Sup.1948, 212 La. 1095, 34 So.2d 329.

One having carnal knowledge of female between 12 and 18 violated two laws and could be punished under either Acts 1918, No. 169 or Acts 1912, No. 192. State v. Campbell, Sup.1933, 177 La. 559, 148 So. 708.

#### 8. Indictment and information

Defendant could be prosecuted under Acts 1918, No. 169, for contributing to delinquency of minor, notwithstanding minor named in affidavit was not and had not been charged as neglected or delinquent child. State v. Lewis, Sup.1935, 183 La. 824, 165 So. 1.

Affidavit charging accused with contributing to child's delinquency under Acts 1918, No. 169 did not have to negative that accused was parent, tutor, or similar custodian of child. State v. Ramey, Sup.1931, 173 La. 478, 137 So. 859.

Affidavit charging accused with contributing to child's delinquency within Acts 1918, No. 169, § 1 was sufficient, although not showing child had been adjudged guilty of juvenile delinquency. State v. Ramey, Sup.1931, 173 La. 478, 137 So. 859.

## 9. Jurisdiction

Prosecution begun under either Acts 1968, No. 486, making violation of contributing to delinquency of a minor a misdemeanor, or Acts 1968, No. 647, converting crime into a felony because it provided imprisonment at hard labor as a possible penalty, was improper in a city court inasmuch as both acts provided for maximum penalty of two years imprisonment which triggered constitutional requirement that jury trial be available to defendant. *State v. Bosworth*, Sup.1979, 373 So.2d 152.

Where 1968 act (No. 647) amending this section to subject defendant convicted of contributing to delinquency of juveniles to possible sentence of hard labor was received by governor after governor's receipt of Acts 1968, No. 486, which provided for only a jail sentence or fine upon conviction of such offense, act authorizing imprisonment at hard labor was controlling, and therefore, city court was without jurisdiction of defendant's prosecution for contributing to delinquency of juveniles. *State v. Seals*, Sup.1977, 343 So.2d 717.

## 10. Admissibility of evidence

In prosecution for contributing to delinquency of a juvenile and for other offenses, refusal to permit witness, who was an expert in fields of chiropractic and social psychology and whose opinion on issue whether defendant had capacity to commit crime of contributing to delinquency of a juvenile was grounded solely on occasional conversations with defendant during course of witness' treatment of defendant for a physical ailment, to testify as to such opinion was not error; insufficient foundation was laid where witness failed to state facts on which his opinion was based. *State v. Mallett*, Sup.1978, 357 So.2d 1105, certiorari denied 99 S.Ct. 848, 439 U.S. 1074, 59 L.Ed.2d 41.

Trial court's sustaining state's objection in defendant's trial for contributing to delinquency of juvenile and indecent behavior with juvenile to question by defense counsel on cross-examination of juvenile as to how many persons other than defendant she had had sexual relations with was proper. *State v. Angelo*, Sup.1967, 251 La. 250, 203 So.2d 710.

The fact that certain night club was licensed place, attended by many men, women and children of community, was irrelevant on question whether it was place where morals of minor girl might be corrupted or impaired, in prosecution under Acts 1916, No. 139, as required to warrant conviction of her father for contributing to her delinquency by encouraging and permitting her to enter such club. *State v. Scallan*, Sup.1942, 201 La. 1026, 10 So.2d 885.

Permitting prosecuting attorney to introduce record of delinquency proceeding, immediately after announcing close of case, in trial under Acts 1918, No. 169, for contributing to child's delinquency, was not abuse of discretion. *State v. McCain*, Sup.1929, 168 La. 87, 121 So. 583.

## 11. Weight and sufficiency of evidence

Testimony of 8, 11, and 12-year-old victims that defendant had enticed, coerced, and/or intimidated the trio into rubbing his penis with cocoa butter was sufficient to support defendant's conviction of contributing to the delinquency of juveniles and attempted indecent behavior with juveniles. *State v. Reed*, App. 3 Cir.1987, 512 So.2d 588.

Evidence that 16-year-old girl and a friend with whom she had been staying for two days stopped at defendant's home en route to a store and visited with him, talking and listening to the stereo for less than two hours, with defendant having no reason to know that the girl was absent from her home without the authority of her parents, was insufficient to sustain conviction for contributing to the delinquency of a minor. *State v. Phillips*, Sup.1982, 412 So.2d 1061.

## 12. Instructions

In prosecution under Acts 1916, No. 139, for contributing to delinquency of accused's minor daughter by encouraging and permitting her to enter a night club where her morals might be corrupted, endangered or impaired, Juvenile Court judge properly refused to charge jury that if parent owns considerable property and comfortable home and provides all necessities of life for his family and child is regularly sent to school, attends to her religious duties and has not committed any acts constituting juvenile delinquency, mere fact that such parent permits child to visit a regularly licensed amusement club where intoxicating liquors are sold does not constitute "contributing to delinquency". *State v. Scallan*, Sup.1942, 201 La. 1026, 10 So.2d 885.

## 13. Sentence and punishment

Sentence of 24 months at hard labor with suspended execution of all but 12 months of sentence arising out of defendant's guilty plea to charges of contributing to the delinquency of a minor was not constitutionally excessive where term of incarceration was within ranges suggested by designated guidelines grid cell, defendant was second felony offender and he presented no special circumstances which would mandate lesser sentence. *State v. Reaves*, App. 2 Cir.1996, 28,562 (La.App. 2 Cir. 9/25/96), 681 So.2d 41.

Trial judge did not abuse his discretion in sentencing defendant convicted on guilty plea to contributing to delinquency of juvenile to 12-months of hard labor, even though defendant had not previously been in trouble, had record of employment, had documented health problems, and showed remorse; available evidence, viewed in light most favorable to prosecution, would have supported conviction for originally charged offense of sexual battery upon seven-year-old girl, for which defendant would have faced sentence of up to ten years. *State v. Strange*, App. 2 Cir.1996, 28,466 (La.App. 2 Cir. 6/26/96), 677 So.2d 587.

In light of defendant's extensive criminal history and fact that unsupervised probation had previously been terminated unsatisfactorily, six-month concurrent sentences for two theft convictions to be served consecutively with six-month sentence for conviction of contributing to delinquency of a minor were not excessive. *State v. Richard*, App. 1 Cir.1983, 442 So.2d 711.

Although, in light of the circumstances, trial court did not abuse its discretion in sentencing defendant to imprisonment for one year in the parish jail upon his guilty plea to charge of contributing to the delinquency of a juvenile, sentence was excessive in view of legislative reduction of penalties that predated commission of the offense and reduced penalty to a maximum of six months' imprisonment and a fine of \$500. *State v. Bosworth*, Sup.1981, 415 So.2d 912.

Where at time of instant offense of contributing to delinquency of minor, this section provided two conflicting punishments, one of which rendered crime a felony while the other retained the crime's misdemeanor status, and where legislature at last removed conflict in penalty provision by providing misdemeanor status for crime except for violation of subsection not in issue in instant case, defendant would be afforded advantage of lesser punishment provided by conflicting amendments; overruling *State v. Seals*, 343 So.2d 717 and *State v. Elias*, 357 So.2d 275, insofar as they were inconsistent with decision rendered. *State v. Bosworth*, Sup.1979, 373 So.2d 152.

#### 14. Civil actions

Babysitter did not state cause of action in his suit against children's aunt for contributing to children's delinquency and breach of peace in that suit involved criminal offenses solely within domain of district attorney's office. *Deville v. Frazier*, App. 3 Cir.1985, 476 So.2d 1051.

#### 15. Review

Though defendant received sentence of only six months in parish prison and fine of \$500, offense of contributing to the delinquency of a juvenile was a felony appealable to the Supreme Court *State v. Elias*, Sup.1978, 357 So.2d 275.

An adult convicted of a misdemeanor in the Orleans Juvenile Court and given sentence not exceeding 6 months did not have right to appeal to Supreme Court under 1958 amendment of Const.1921, Art. 7, § 10 (see, now, Const. Art. 5, § 5), and only way by which appeal could be had to such court was under its supervisory jurisdiction, and accordingly appeal was required to be dismissed. *State v. Thomas*, Sup.1963, 245 La. 444, 158 So.2d 606.

Supreme Court was without jurisdiction to review question whether documentary evidence in prosecution for contributing to delinquency of child revealed that prosecutrix was over age of 17 where there was testimony that she was under age of 17. *State v. Gonzales*, Sup.1961, 241 La. 619, 129 So.2d 796.

In reviewing conviction and sentence under Acts 1916, No. 139, of father for contributing to his minor daughter's delinquency by encouraging and permitting her to enter a night club where her morals might be corrupted, endangered or impaired, Supreme Court must assume that evidence adduced at trial supported juvenile court judge's conclusion that such club was a place which girl of such daughter's age should not enter. *State v. Scallan*, Sup.1942, 201 La. 1026, 10 So.2d 885.

LSA-R.S. 14:92

LA R.S. 14:92

END OF DOCUMENT

LA R.S. 27:318

LSA-R.S. 27:318

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 6. VIDEO DRAW POKER DEVICES

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 318. Distribution of device revenues; particular licensed establishments; pari-mutuel wagering facilities

A. (1) When the owner of the licensed establishment is not the licensed device owner of the devices placed in or on his premises, one-half of the monthly net device revenues received by the establishment owner, after deduction of one-twelfth the estimated total of the annual establishment fees plus one hundred dollars per device per month and any fee or tax levied by the local governing authority, shall be used to supplement purses for horsemen as provided in Subsection B of this Section and shall be added to those presently available under R.S. 4:183. Such monies shall be made available for use as purses monthly, prior to the twentieth day of the month following the month in which they are earned.

(2) When the owner of the licensed establishment is the licensed device owner of the devices placed in or on his premises, one-half of the monthly net device revenues received by the establishment owner in excess of five hundred dollars shall be used to supplement purses for horsemen as provided in Subsection B of this Section and shall be added to those presently available under R.S. 4:183. Such monies shall be made available for use as purses monthly, prior to the twentieth day of the month following the month in which they are earned.

B. Revenues earned for purse supplements under Subsection A shall be disbursed, accounted for, and used as follows:

(1) Monies earned for purse supplements from devices located at a racing facility currently conducting live racing shall be in addition to all other monies currently provided for purses and purse supplements under other provisions of law and shall be used at the current race meeting.

(2) Monies earned for purse supplements from devices located at an eligible racing facility not currently conducting live racing shall be placed in an interest bearing account until the first day of the next live race meeting conducted at that facility, at which time the accumulated monies derived from this Paragraph and interest earned on such monies shall be added to all other monies currently provided for

purses and purse supplements at that race meeting under other provisions of the law and shall be used at that race meeting.

(3) Monies earned for purse supplements from devices located at an eligible off-track wagering facility shall be used for purse supplements at the racing facilities of the owners of the off-track wagering facility where the net device revenues were earned. Where such facilities are jointly owned, the monies earned for purse supplements at that facility shall be divided in direct proportion to ownership of the facility for use at their respective racing facilities. Distribution of monies earned for purse supplements in accordance with this Paragraph shall be distributed as provided for in Paragraphs (1) and (2) of this Subsection.

(4) Four percent of all monies earned or authorized in accordance with the provisions of this Section for purse supplements shall be paid the authorized representative of the horsemen for the use and benefit of such persons and other horsemen as medical and hospital benefits. However, provisions of this Paragraph shall not apply if provisions of R.S. 4:183 as currently in effect require such a deduction from monies earned for purse supplements under this Section, and provisions of this Paragraph would result in duplication of designated funds for hospitalization for horsemen.

C. The division shall require all contracts between licensed device owners, operators, or service entities and owners of licensed establishments offering pari-mutuel wagering to be in writing and submitted to the division within ten days of signing. The division shall promulgate rules and regulations necessary to require correct reporting and timely use of those funds designated for use as horsemen's purses.

D. The provisions of this Section shall only apply to pari-mutuel wagering facilities.

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1991, No. 1062, § 1.

Acts 1993, No. 524, § 1.

R.S. 33:4862.18.

R.S. 33:4862.18 was redesignated as R.S. 27:318 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute. Pursuant to

the same authority, "above", which had followed "Subsection A" in subsec. B was deleted.

NOTES OF DECISIONS

Distribution of revenues 1

1. Distribution of revenues

Horsemen's association did not have to pursue remedies under Administrative Procedure Act prior to seeking judicial review of their claim that state entities were taking improper deductions from gaming device revenues received by racetrack before supplementing horsemen's purses from revenues. Louisiana Horsemen's Benev. and Protective Ass'n 1993, Inc. v. Fair Grounds Corp., App. 1 Cir.1996, 951702 (La.App. 1 Cir. 4/4/96), 672 So.2d 340, writ denied 96- 1125 (La. 6/7/96), 674 So.2d 969, writ denied 96-1163 (La. 6/7/96), 674 So.2d 968.

Video draw poker proceeds determination of amount of deduction from proceeds of video draw poker devices to be paid through horseracing purse supplements. Op.Atty.Gen., No. 93-330, May 7, 1993.

LSA-R.S. 27:318

LA R.S. 27:318

END OF DOCUMENT

LA R.S. 27:374

LSA-R.S. 27:374

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 7. PARI-MUTUEL LIVE RACING FACILITY ECONOMIC REDEVELOPMENT AND  
GAMING CONTROL ACT  
PART II. CONDUCT OF SLOT MACHINE GAMING ACTIVITY  
SUBPART B. PROHIBITED ACTIVITIES

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 374. Illegal lottery devices

Notwithstanding any provision of the law to the contrary, no slot machine operated according to the provisions of this Chapter shall be considered an illegal lottery device for purposes of R.S. 47:9075.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1997, No. 721, § 1, eff. July 9, 1997.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

For date effective information, see italic note preceding R.S. 27:351.

LSA-R.S. 27:374

LA R.S. 27:374

END OF DOCUMENT

LA R.S. 18:1300.23

LSA-R.S. 18:1300.23

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 18. LOUISIANA ELECTION CODE  
CHAPTER 6-D. GAMING ELECTIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 1300.23. Riverboat gaming election; procedure; Bossier Parish

A. A referendum election, as required by Article XII, Section 6(C)(2) of the Constitution of Louisiana, may be called by ordinance or resolution by the parish governing authority and may be held in Bossier Parish on July 19, 1997, or on a succeeding appropriate date selected by the parish governing authority and as provided by law, to consider the proposition of whether to allow additional riverboat gaming, gambling, or wagering operations and activities in Bossier Parish pursuant to a new license to be issued by the Louisiana Gaming Control Board in accordance with the decision of the board entered on March 13, 1997.

B. The proposition on the ballot shall be stated as follows: Shall additional riverboat gaming operations be allowed at a berth or docking facility in Bossier Parish pursuant to a new license to be issued by the Louisiana Gaming Control Board as provided in the board decision entered on March 13, 1997? Yes ( ) No ( )

C. If a majority of those voting thereon vote in favor of allowing such additional riverboat gaming operations and activities, then such additional gaming operations and activities may be conducted in Bossier Parish in accordance with law, subject, however, to the licensing and regulatory authority of the Louisiana Gaming Control Board. No such additional gaming operations and activities shall be conducted unless and until a license is issued by the Louisiana Gaming Control Board.

D. Except as provided in this Section, the election shall be conducted as provided in Chapter 6-B of this Title, including but not limited to those provisions providing for the responsibility of the parish governing authority to provide notice to the public as provided by law.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1997, No. 36, § 1, eff. May 29, 1997.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

This section, originally enacted by Acts 1997, No. 36, § 1, effective May 29, 1997, as R.S. 18:1300.22, was redesignated as R.S. 18:1300.23, pursuant to the statutory revision authority of the Louisiana State Law Institute.

LSA-R.S. 18:1300.23

LA R.S. 18:1300.23

END OF DOCUMENT

WEST'S LOUISIANA STATUTES ANNOTATED

LOUISIANA REVISED STATUTES

TITLE 18. LOUISIANA ELECTION CODE

CHAPTER 6-D. GAMING ELECTIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

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CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1997, No. 36, § 1, eff. May 29, 1997.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

This section, originally enacted by Acts 1997, No. 36, § 1, effective May 29, 1997, as R.S. 18:1300.22, was redesignated as R.S. 18:1300.23, pursuant to the statutory revision authority of the Louisiana State Law Institute.

LSA-R.S. 18:1300.23

LA R.S. 18:1300.23

END OF DOCUMENT

LA C.C. Art. 2315

LSA-C.C. Art. 2315

LOUISIANA CIVIL CODE

BOOK III. OF THE DIFFERENT MODES OF ACQUIRING THE OWNERSHIP OF THINGS

TITLE V. OBLIGATIONS ARISING WITHOUT AGREEMENT

CHAPTER 3. OF OFFENSES AND QUASI OFFENSES

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

LA R.S. 27:220

LSA-R.S. 27:220

WEST'S LOUISIANA STATUTES ANNOTATED

LOUISIANA REVISED STATUTES

TITLE 27. LOUISIANA GAMING CONTROL LAW

CHAPTER 5. THE LOUISIANA ECONOMIC DEVELOPMENT AND GAMING CORPORATION LAW

PART IV. OPERATIONS OF CORPORATION IN GENERAL

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 220. Duties of the board; adoption of administrative regulations; rulemaking authority

A. (1) The board of directors shall provide the president with private-sector perspectives on the operation of a large gaming enterprise.

(2) In addition, the board shall:

(a) Approve or disapprove the budget for the operation of the corporation.

(b) Approve or disapprove the terms of major procurements.

(c) Serve as a board of appeal for any denial, revocation, or cancellation by the president of a contract, license, or permit issued pursuant to the provisions of this Chapter.

(d) Adopt such administrative rules and regulations as may be necessary to carry out and implement its powers and duties, the operations of the corporation, the conduct of gaming operation in general, and any other matters necessary or desirable for the efficient and effective operation of the casino gaming or convenience of the public.

(e) Review the performance of the corporation and advise the president and make recommendations to him regarding operations of the corporation.

B. The board shall adopt rules for the conduct of specific games and gaming operations, including but not limited to rules specifying:

(1) The types of games to be conducted.

(2) The granting of credit to a patron.

(3) Special procedures for making and soliciting requests for major procurements.

C. The board may, by rule and regulation, create and adopt special procedures for promulgation of rules and regulations, but such special procedures and the creation and adoption of any rule, regulation, or special procedure of the board shall include legislative oversight and publication of notice of intent as provided for in R.S. 49:953 except that the notice may be published either in the official journal of the state or the state register.

D. For purposes of expeditious implementation of the provisions of this Chapter, the promulgation of initial administrative rules shall constitute a matter of imminent peril to public health, safety, and welfare as provided in R.S. 49:953(B).

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1992, No. 384, § 1.  
R.S. 4:620.

R.S. 4:620 was redesignated as R.S. 27:220 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

LSA-R.S. 27:220

LA R.S. 27:220

END OF DOCUMENT

LA R.S. 24:513.3

LSA-R.S. 24:513.3

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 24. LEGISLATURE AND LAWS  
CHAPTER 8. LEGISLATIVE AUDITOR; LEGISLATIVE AUDIT ADVISORY COUNCIL  
PART I. LEGISLATIVE AUDITOR

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 513.3. Audit reports; gaming regulator audits; review of gaming facilities

A. The legislature hereby recognizes that the legislative auditor is required by generally accepted auditing standards to determine whether gaming industry regulators are effectively performing their oversight function in the regulation of gaming operators in the state of Louisiana.

B. (1) In order to fulfill the duties imposed upon him by generally accepted auditing standards, the legislative auditor is authorized to accompany and/or observe any gaming industry regulators in the performance of their official duties in any gaming facility located within the state of Louisiana. However, the legislative auditor shall strive to use the least intrusive method of observation which will allow him to perform his duties hereunder. The legislative auditor may have access to the gaming facility to observe the gaming operations pursuant to this Subsection without the accompaniment of a gaming regulator only with the express written consent of the gaming operator unless such written consent is subsequently rescinded in writing by the gaming operator.

(2) "Gaming industry regulators", as used herein, shall mean the Department of Revenue, the Department of Public Safety and Corrections, the Riverboat Gaming Commission, the Louisiana Economic Development and Gaming Corporation, any successor boards, commissions or departments which are formed to regulate the gaming industry in Louisiana and their representatives.

C. In addition and in furtherance of the legislative auditor's responsibility shown in Subsections A and B of this Section, provided the legislative auditor previously has obtained the written consent of the gaming operator and unless such written consent is subsequently rescinded in writing by the gaming operator, the legislative auditor may examine, audit, inspect, copy and/or review the books and records relating to revenues, including but not limited to accounts, papers, documents, files, instruments, films, tapes and any other forms of recordation relating to revenues, whether confidential or otherwise, of a gaming operator of a facility.

D. All files, records, reports, and other information pertaining to gaming matters in the possession of any gaming industry regulator shall be made available to the legislative auditor as necessary for the performance of his duties hereunder.

E. The legislative auditor may enter into restricted use and information sharing agreements with gaming industry regulators and law enforcement agencies. Information received pursuant to such agreements shall not be disclosed without the permission of the providing agency.

F. (1) The legislative auditor shall adopt a code of ethics for himself and his employees.

(2) Ethics codes adopted by the legislative auditor shall include but not be limited to the Code of Governmental Ethics and shall contain the following:

(a) The legislative auditor and his employees shall not be permitted to engage in gaming activities in an establishment licensed by a gaming industry regulator, except in the course of the person's duties.

(b) The legislative auditor and his employees shall not solicit or accept employment from an establishment licensed by a gaming industry regulator for a period of two years after termination of employment with the office of the legislative auditor.

(c) The legislative auditor and his employees shall not have a direct or indirect interest in an establishment licensed by a gaming industry regulator, or a holding, intermediary, or subsidiary company of such establishment during the employment of the legislative auditor and his employees.

(3) The legislative auditor, his employees, and any spouse or minor child of the legislative auditor and his employees shall not pay, lend, or contribute anything of value to a political candidate, political organization, political party, or political action committee.

(4) The legislative auditor and his employees shall not acquire a direct or indirect interest in or be employed by an establishment

licensed by a gaming industry regulator for a period of two years after termination of employment with the office of the legislative auditor.

G. In performing the functions of this Section, the legislative auditor shall comply with any and all restrictions imposed by law and by any rule, regulation, or contractual agreement on documents, data, or information deemed confidential by law and by any rule, regulation, or contractual agreement.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1995, No. 1315, § 1, eff. July 1, 1995.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as enacted in 1995, in subsec. B, pars. (1) and (2) were designated. Paragraph (2) is comprised of the third sentence of the former subsection, and par. (1) is comprised of the first, second and fourth sentences of the former subsection.

In 1997, pursuant to Acts 1997, No. 658, § 2 and the statutory revision authority of the Louisiana State Law Institute, "Department of Revenue and Taxation" was changed to "Department of Revenue" in par. B(2).

NOTES OF DECISIONS

Prohibited employment 1

1. Prohibited employment

The legislative auditor and his employees are prohibited from participating in charitable gaming activity, including church or school-sponsored bingo and raffles which are conducted at a church or school establishment or at any commercial or non-commercial establishment. Op.Atty.Gen. No. 96-80, July 19, 1996.

LSA-R.S. 24:513.3

LA R.S. 24:513.3

END OF DOCUMENT

LA R.S. 4:149.3

LSA-R.S. 4:149.3

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 4. AMUSEMENTS AND SPORTS  
CHAPTER 4. RACING

PART I. HORSE RACING

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 149.3. Interstate wagering; common pools

A. Subject to applicable federal laws, including but not limited to the Interstate Horseracing Act of 1978 (Chapter 57, commencing with Section 3001, of Title 15 of the United States Code) the commission may permit a licensee to participate in interstate common pools, including common pools which may include international jurisdictions. All provisions of law governing pari-mutuel betting apply to pari-mutuel betting in interstate common pools except as otherwise provided in this Section or in the commission's rules.

B. Participation in a common pool solely as a track conducting the race or as a receiving track will not cause such track to be deemed to be doing business in this state, or in the other state, for any purpose.

C. With the prior approval of the commission, a licensee who is permitted to accept wagers in this state on horse races conducted at tracks conducting races located outside of this state may combine pari-mutuel pools in this state with comparable pools at the track conducting the race.

D. Notwithstanding other provisions of this Chapter and subject to the approval of the commission, the types of wagering, takeout, distribution of winnings, and rules of racing in effect for pari-mutuel pools at the track conducting the race shall govern wagers placed in this state and merged into the interstate common pool. Breakage for interstate common pools shall be calculated in accordance with the law or rules governing the track conducting the race, and shall be distributed between participating jurisdictions in a manner agreed to between the licensee and the track conducting the race.

E. With the prior approval of the commission and with the concurrence of the track conducting the race, an interstate common pool may be formed among the licensee and other receiving persons or entities in any states other than the state in which the track conducting the race is located. For such an interstate common pool, the commission may approve the types of wagering, takeout, distribution of winnings, rules of racing, and calculation of breakage which are different than those which would otherwise be applied in this state but are consistent for all parties to the interstate common pool.

F. The licensee may deduct from wagers placed in any interstate common pool any fee to the person or entity conducting the race for the privilege of conducting pari-mutuel wagering on the race, and payment of costs incurred in transmitting the broadcast of the race and participation in the interstate common pool.

G. The provisions of law or contract, if any, governing the distribution of shares of the takeout, from wagers placed in this state in separate pari-mutuel pools on races run in another state, to this

state as pari-mutuel taxes, or respectively to breeder awards and to purses in this state, shall remain in effect for wagers placed in interstate common pools; provided that if the commission has approved an adjustment in the takeout rate, the distribution of the takeout within this state shall be adjusted proportionately to reflect the adjustment in the takeout rate; provided further that with the concurrence of the licensee, the share designated for purses may be modified.

H. With the prior approval of the commission, a licensee may permit one or more of its races to be utilized for pari-mutuel wagering at one or more locations in other states, may transmit audio/visual signals of races the licensee conducts to one or more locations outside the state, and may also permit pari-mutuel pools in other states to be combined with its comparable wagering pools or with wagering pools established by other states. The commission may modify its rules and may adopt separate rules governing interstate common pools, and may establish by rule separate provisions for interstate common pools governing the calculation of breakage.

I. Pari-mutuel taxes shall not be imposed upon any amounts wagered in an interstate common pool other than upon amounts wagered within this state.

J. The provisions of law or contract, if any, governing the distribution of shares of the takeout, from wagers placed in other states in separate pari-mutuel pools on races run in this state, respectively to breeder awards and to purses in this state, shall remain in effect for wagers placed in interstate common pools. Provided that with the concurrence of the licensee and the Horsemen's Benevolent and Protective Association, and the appropriate breeder's organization, the share of breeder awards or purses may be modified.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1990, No. 558, § 1, eff. July 19, 1990.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

In this section, as amended in 1990, the first letters of the final three words of the section heading were lower cased; the first letter of "Commission" was lower cased throughout the section; an opening parenthesis was changed to a comma in the first sentence of subsec. A, following "interstate common pools"; and a closing parenthesis was deleted from the end of the first sentence; "conducting a race" was changed to "conducting races" in subsec. C; a comma was inserted, following "distribution of winnings", in the first sentence of subsec. D; and near the end of subsec. J, "organizaton" was changed to "organization" all on authority of R.S. 24:253.

LSA-R.S. 4:149.3

LA R.S. 4:149.3

END OF DOCUMENT

LA R.S. 4:10.3

LSA-R.S. 4:10.3

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 4. AMUSEMENTS AND SPORTS  
CHAPTER 1. GENERAL PROVISIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 10.3. Specific games; requirements

Any games of chance or skill as described in this Section shall be operated in accordance with this Section:

(1) Milk bottle game. The operator of a milk bottle ball game must operate at all times with the number of milk bottles on the sign. No bottle may weigh over three pounds, and all bottles shall be free from defects and each set shall be uniform in size. The base on which the bottles shall sit shall be not less than eighteen inches from the ground. The front barrier shall not be higher than the base on which the bottles sit. The base shall be at least six feet from the front barrier. A rim not to exceed one-half inch will be permitted if operating the game "all over." No obstruction whatsoever will be permitted around the base on which the bottles sit if operating the game "all off."

(2) Certain games. Huckla buck kegs, milk can, or similar games must be set on a frame and kept level at all times. Each operator must operate the number of kegs indicated on the sign throughout the season without change. Rubber and plastic balls are prohibited. The width of the opening of the kegs in huckla buck, milk can, or similar games shall be such that there shall be not less than three-fourths inch from the center position of the ball.

(3) Roll-a-game. The board shall be level laterally and unwarped with no obstruction to make the ball jump. All slots or holes shall be colored or well-numbered to show wins. All slots or holes must be in an even row at the back of board--not staggered. Ball shall be solid and round at all times.

(4) Break-balloon ball games. Balloons shall be stationary on targets. Rubber, plastic, or cork balls are prohibited.

(5) Break-the-record games. Records shall be placed in a stationary grooved rack at least twenty feet from the front barrier. The operator of this game must provide a protective covering on three sides and top to protect the public. A canvas backdrop shall be used. Unbreakable records shall not be used.

(6) Clown pop-em-in or bungalow board. This game must have at least one-half inch clearance over size of the ball and the target must not be over ten feet distance.

(7) Bowling alleys. Automatic bowling alleys shall be allowed.

(8) Cat racks. Cat racks shall have but one rail which shall be in front only. The rail shall not extend over one inch above shelves where cats are placed. The width of the shelves on which cats are placed shall not exceed the length of the cat plus three inches; fur trim shall not be included in determining length of the cat. The distance of the separations between the shelf boards where the cats sit shall not exceed one inch; no more than three separations per shelf shall be permitted. Shelves shall be level at all times. The canvas backdrop must be at least the length of the cats plus three inches back from the rear edge of shelf. The weight of the cats shall not exceed two pounds.

(9) African dip or similar games. When men or women are used on target seat they shall not use foul or insulting language and shall be properly dressed. Rubber, plastic, or cork balls are prohibited.

(10) Break-balloon dart game. The target board playing area must be at least seventy-five percent full of target balloons inflated at all times. Blunt- pointed darts are prohibited.

(11) Ring-bottle game. The table or stand supporting the bottles shall be of a height so that the top of the bottles to be rung shall not exceed four feet in height from ground level. No obstruction shall be placed between or around the bottles at any time. The clearance of the ring shall be such that there will be not less than one-fourth inch clearance measured from inside of ring to neck of bottle. Ring-bottle games shall be operated in a level position at all times. The use of grease or wax on rings, platforms, or bottles is prohibited.

(12) Cane rack. Cane racks shall be ninety percent filled with canes at all times. Canes shall be so arranged that each cane can be rung. The clearance of the ring shall be such that there will be not less than three-eighths inch clearance measured from the inside of ring to head of cane.

(13) Fishing pole or bottle set-up game. The platform on which bottles are placed must be not less than twelve inches square. Bottles must be placed in the center of the platform. The platform shall be level at all times. Rings shall not have more than three-eighths inch clearance. The use of grease or wax on rings, platforms, or bottles is prohibited.

(14) Hoop-la games. Hoop-la games shall have three-eighths inch clearance on flat solid blocks uncovered, and no prizes may project over blocks. Blocks must be placed on a table with sufficient clearance to permit any hoop to surround block unobstructed. Blocks are unnecessary under cigarettes. All prizes displayed on a block entitle the player to win all prizes on the block. Hoops must be round and uniform in size. The platform shall not be more than twenty-four inches from the ground.

(15) Wooden-duck game. In a ring wooden duck game or any other game using rings, the clearance of the ring shall not be less than three-eighths inch.

(16) Guess-weight game. Guess-your-weight-or-age operators shall guess weight and age by observation only. Scale dials must have clear figures and must be illuminated at all times so they can be read by the public.

(17) Hi-strikers. Hi-strikers shall be in good condition at all times. The slides or wires shall be straight and free of any obstruction or controls. Slide board must be plumb at all times. All mallets must be in good condition. There shall be a fence of sufficient strength and not less than thirty-six inches high around striker to protect the public.

(18) Pitch game. The stand on which prizes are placed shall be ninety percent filled at all times. Each prize shall have a large enough opening and be so arranged that they can be won. When a target is used for choice it must be so stated by sign how choice prize is won.

(19) Long range, cork, bazooka galleries. The guns shall be attached to counter in a manner to protect the public. A lead gallery shall use nonspatter bullets only. Galleries must have good side and back wall protection at all times.

(20) Cork-shooting gallery. The operator must supply guns in good mechanical condition. No chipped or crooked corks may be used. Shelves where targets are placed are not to exceed four inches in width and no obstruction shall interfere with prize falling off the shelf. No targets shall be used which cork guns cannot shoot off shelf.

(21) Archery. The operator of this game must provide a protective covering on three sides and top to protect fair patrons from stray arrows.

(22) Ring-the-pin game. Operators of this game must arrange pins so that they remain stationary and perpendicular at all times. Pins shall be arranged so that it is possible to ring each pin. The top row of pins must not be higher than four feet above the ground.

(23) Football game. Operators of this game, where a hole in the canvas is used as a target, must provide regulation footballs to be thrown and the clearance in the target shall be at least one inch measured from the largest part of the football.

(24) Ball games. The operator of any ball game must provide balls which are round, firm, smooth, and not broken or frayed. All games operated at any fair, carnival, amusement park, or any other place where games of chance or skill are made available for pay must be maintained in good condition and must be under the supervision of a competent operator at all times the game is in operation.

(25) Bulldozers. The playing surface must be flat, with no lip, raised edge, or screws. Only tokens may be used to play. Prize chips must lie on top of tokens, not on the playing surface. Any side drop

chute, out-of-bounds slot, or other device by which tokens are returned to the operator must be visible to the player and clearly and permanently labeled. Any items falling over the cliff belong to the player. The machine must have a stop button, allowing the player to stop the bulldozer at his discretion. Not less than twelve prizes and three prize chips must be in play at each position at all times.

CREDIT(S)

1987 Main Volume

Added by Acts 1981, No. 918, § 1, eff. Aug. 2, 1981. Amended by Acts 1983, No. 438, § 1.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1987 Main Volume

The 1983 amendment added par. (25).

LIBRARY REFERENCES

1987 Main Volume

Gaming k6.  
C.J.S. Gaming § 1 et seq.

LSA-R.S. 4:10.3

LA R.S. 4:10.3

END OF DOCUMENT

LA R.S. 4:214.1  
LSA-R.S. 4:214.1

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 4. AMUSEMENTS AND SPORTS  
CHAPTER 4. RACING  
PART II. OFFTRACK WAGERING

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 214.1. Minimum live racing dates; offtrack and other authorized wagering

An association shall not be licensed to conduct offtrack or other authorized wagering in the state unless it conducts live horse racing for not less than eighty racing days within a twenty week period at the facility designated in its license, unless the association is prevented from live racing as a result of a natural disaster, an act of God, force majeure, a catastrophe, or such other occurrence over which the

association has no control. When a pari-mutuel wagering facility and a related offtrack betting facility are sold, the purchaser shall conduct the minimum number of live racing days required by this Section as a condition of operating the offtrack betting facility.

CREDIT(S)

1999 Electronic Pocket Part Update

Added by Acts 1989, No. 631, § 1, eff. July 7, 1989. Amended by Acts 1990, No. 557, § 1, eff. July 19, 1990.

<General Materials (GM) - References, Annotations, or Tables>

NOTES OF DECISIONS

Licenses 1

1. Licenses

OTB statutes do not provide for sale or transfer of an off-track wagering license unless it is included within the sale of a pari-mutual facility. When the sale of a pari-mutual facility includes the OTB license, the purchaser must comply with R.S. 4:214.1, which provides for eighty live racing days in twenty weeks. Op.Atty.Gen., No. 93-241, April 12, 1993.

In order to be validly licensed to conduct offtrack or other authorized wagering in state, association must conduct live horse racing for not less than 80 racing days during 20 consecutive week period. Op.Atty.Gen., No. 92-27, March 4, 1992.

LSA-R.S. 4:214.1

LA R.S. 4:214.1

END OF DOCUMENT

LA R.S. 27:41

LSA-R.S. 27:41

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 4. THE LOUISIANA RIVERBOAT ECONOMIC DEVELOPMENT AND GAMING CONTROL ACT  
PART I. GENERAL PROVISIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.  
Acts

§ 41. Title and citation

This Chapter shall be cited and referred to as the "Louisiana Riverboat Economic Development and Gaming Control Act".

CREDIT(S)

1999 Electronic Pocket Part Update

Acts 1996, 1st Ex.Sess., No. 7, § 3, eff. May 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Electronic Pocket Part Update

Source:

Acts 1991, No. 753, § 1.

R.S. 4:501.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in R.S. 4:501 as enacted in 1991, quotation marks were inserted to enclose the short title of the Chapter.

R.S. 4:501 was redesignated as R.S. 27:41 in 1996, pursuant to § 3 of Acts 1996, 1st Ex.Sess., No. 7 (§ 1 of which enacted Title 27 of the Louisiana Revised Statutes of 1950) and pursuant to the statutory revision authority of the Louisiana State Law Institute.

Title of Act:

An Act to enact Chapter 9 of Title 4 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 4:501 through 562, R.S. 14:90(D), and R.S. 36:409(C)(6), relative to gaming; to authorize the conducting of gaming activities on certain vessels under certain conditions; to provide for licensing, regulation, and enforcement; to establish a riverboat gaming enforcement division in the Department of Public Safety and Corrections; to provide for civil, administrative, and criminal penalties for prohibited acts and violations; to provide for local option elections; to provide for declarations under federal law; and to provide for related matters. Acts 1991, No. 753.

CROSS REFERENCES

Check-cashing facilities, restriction on location in vicinity of gaming establishment or riverboat gambling docking facility, see R.S. 6:423.

Gambling, legislative power to define and suppress, see Const. Art. 12, § 6.

Pawnshops, restriction on location in vicinity of gaming establishment or riverboat gambling docking facility, see R.S. 37:1785.

Secondhand dealers, restriction on location in vicinity of gaming establishment or riverboat gambling docking facility, see R.S. 37:1861.2.

LAW REVIEW AND JOURNAL COMMENTARIES

Maritime roulette. Frank L. Maraist & Thomas C. Galligan, Jr., 42 La.B.J. 127 (1994).

States ante up: An analysis of casino gaming statutes. Victor J. Franckiewicz, Jr., 38 Loy.L.Rev. 1123 (1993).

#### NOTES OF DECISIONS

#### Validity 1

##### 1. Validity

Statutes authorizing licensing of gaming operations did not violate constitutional mandate to suppress gambling; legislature was entitled to define gambling and to exempt from that definition certain forms of gambling not prohibited by Constitution. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations did not unconstitutionally delegate legislative authority to executive branch of government. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations, which restricted collection of local taxes, did not unconstitutionally abrogate taxing powers granted to city of New Orleans pursuant to its home rule charter; gaming statutes were enacted pursuant to valid exercise of state's police power, and legislature was constitutionally empowered by general law to deny or revoke delegation of function or power to home rule government when necessary to prevent abridgment of state's police power. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

Statutes authorizing licensing of gaming operations were not unconstitutional "local" or "special" laws, even though their immediate application was limited as to parties and localities; issue was matter of state-wide concern, and legislature was entitled to determine that single facility or type of facility within state was in state's best interest. Polk v. Edwards, Sup.1993, 626 So.2d 1128.

LSA-R.S. 27:41

LA R.S. 27:41

END OF DOCUMENT

LA R.S. 27:65

LSA-R.S. 27:65

WEST'S LOUISIANA STATUTES ANNOTATED  
LOUISIANA REVISED STATUTES  
TITLE 27. LOUISIANA GAMING CONTROL LAW  
CHAPTER 4. THE LOUISIANA RIVERBOAT ECONOMIC DEVELOPMENT AND GAMING CONTROL  
ACT  
PART V. CONDUCTING OF GAMING OPERATIONS

Current through all 1998 1st Ex.Sess. and Reg. Sess.

Acts

§ 65. Licenses to conduct gaming activities upon riverboats;  
limitations

A. Notwithstanding any other provisions of law to the contrary, upon application properly submitted and examined, the division may issue up to fifteen licenses to conduct gaming activities on a riverboat, which is of new construction in accordance with the provisions of this Chapter. No more than six licenses may be granted for the operation of gaming activities on riverboats for operation from any one parish.

B. Gaming shall be conducted aboard riverboats, subject to the following requirements:

(1)(a) In any parish, except a parish which borders the Red River beginning five miles south of the Kansas City Southern Company/Louisiana Arkansas Crossing Railroad Bridge in Rapides Parish and ending five miles north of the Mid-South Company Railroad Bridge in Caddo Parish, no gaming may be conducted while a riverboat is docked, unless the vessel is docked for less than forty- five minutes between excursions. However, should the master of the riverboat reasonably determine and certify in writing that the weather conditions or the water conditions are such that those conditions, which the master shall specify, present a danger to the riverboat, its passengers, and crew, then the riverboat may remain docked and gaming may take place until such time as the master determines that those conditions have sufficiently diminished to proceed or until the duration of the authorized excursion has expired.

(b)(i) For the purposes of this Chapter, on or after September 15, 1993, in any parish which borders the Red River beginning five miles south of the Kansas City Southern Company/Louisiana Arkansas Crossing Railroad Bridge in Rapides Parish and ending five miles north of the Mid-South Company Railroad Bridge in Caddo Parish, gaming may be conducted while a riverboat is docked.

(ii) Notwithstanding the provisions of Item (i) of this Subparagraph, in any parish which borders the Red River beginning five miles south of the Kansas City Southern Company/Louisiana Arkansas Crossing Railroad Bridge in Rapides Parish and ending five miles north of the Mid-South Company Railroad Bridge in Caddo Parish, upon the written request of the mayor and a resolution of the city council of a municipality, the governing authorities of these parishes may call an election to prohibit gaming while a riverboat is docked in their parish. Except as otherwise provided in this Subsection, such an election shall be conducted as provided in Chapter 6-B of Title 18 of the Louisiana Revised Statutes of 1950 and may be held not later than October 16, 1993.

(iii) In the parishes of Bossier and Caddo, a written request must be obtained from either the mayor and the city council of Shreveport or the mayor and city council of Bossier City, and thereafter, the governing authority of either city may call a citywide election to prohibit gaming while a riverboat is docked in that city, as provided in Item (ii) of this Subparagraph, and must be passed by a majority vote in the city holding the election. Except as otherwise provided in

this Subsection, such an election shall be conducted as provided in  
Chapter 6-B of Title 18 of the Louisiana Revised S  
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