



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4932 (Substitute S-2 as reported)
Sponsor: Representative Tory Rocca
House Committee: Regulatory Reform
Senate Committee: Economic Development and Regulatory Reform

Date Completed: 8-17-09

RATIONALE

Public Act 539 of 1996 amended the Michigan Penal Code to exempt certain redemption games from the Code's prohibitions against gambling. A "redemption game" is a single-player or multiplayer mechanical, electronic, or manual amusement device involving a game whose object is throwing, rolling, bowling, shooting, placing, propelling, or stopping a ball or other object into, upon, or against a hole or other target. For a game to qualify for the exemption, its outcome must be determined through the application of an element of skill by the player; the award of a prize must be based on the player's achieving the object of the game or otherwise upon the player's score; and only noncash prizes, toys, novelties, or coupons or other representations of value redeemable for those noncash prizes may be awarded. The wholesale value of an award for the successful single play of a game may not be more than \$3.75; and the redemption value of coupons or other representations of value awarded for the successful single play of a game may not exceed 15 times the amount charged for a single play of the game or \$3.75, whichever is less. Players may accumulate coupons or other representations of value for redemption for noncash prizes, toys, or novelties of a greater value, however, up to \$250 wholesale value.

Reportedly, a Texas-based restaurant chain that awards redemption game prizes with a value of up to \$400 is interested in locating a business in Macomb County. To allow that company to locate in Michigan and operate using its already successful business plan, as

well as to update the maximum prize amounts enacted more than a decade ago, it has been suggested that the maximum value of accumulated redemption coupons allowed under the Code be doubled and that the single-play value limit of \$3.75 be a per-play average.

CONTENT

The bill would amend the Michigan Penal Code to double the maximum value of accumulated redemption coupon prizes, under an exemption from the Code's gambling prohibitions.

Chapter 44 (Gambling) of the Code prohibits certain operations and activities relating to gambling, although the chapter does not apply to a redemption game if particular conditions are met. One of those conditions is that the redemption value of coupons or other representations of value awarded for a successful single play of a game does not exceed 15 times the amount charged for a single play or \$3.75, whichever is less. Players, however, may accumulate coupons or other representations of value for redemption for noncash prizes, toys, or novelties of a greater value, but not more than \$250 wholesale value. The bill would increase that amount to \$500. Also, under the bill, the single-play redemption value could not exceed 15 times the amount charged for a single play or "a \$3.75-per-play average", whichever was less.

("Redemption game" means a single-player or multiplayer mechanical, electronic, or manual amusement device involving a game

whose object is throwing, rolling, bowling, shooting, placing, propelling, or stopping a ball or other object into, upon, or against a hole or other target. It does not include a game such as roulette, beano, cards, dice, wheel of fortune, video poker, a slot machine, or another game in which winning depends primarily upon fortuitous or accidental circumstances beyond the player's control. The term also does not mean a game that includes a mechanical or physical device that directly or indirectly impairs or thwarts the skill of the player.)

MCL 750.310b

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Under Public Act 539 of 1996, the gambling prohibitions in the Penal Code do not apply to certain types of skill-based games, popular at arcades, restaurants, bars, and fairs, in which coupons or other representations of value are earned based on scores and then can be redeemed for noncash prizes. The exemption allows games such as skee ball or basket shooting to be played for prizes. Some restaurants and bars incorporate the playing of these games into their business plans, making them an entertainment destination rather than just a dining or drinking location. One such business reportedly would like to locate a restaurant/entertainment center in Macomb County, but that business evidently rewards game players with prizes that exceed the maximum value allowed under Michigan law. The \$250 maximum prize permitted under the Penal Code, and the \$3.75 top value for a single play of a game, have not been increased in the 13 years since the enactment of Public Act 539. By doubling the allowable maximum value and specifying that the \$3.75 single-play value limit would be a per-play average, the bill would accommodate a business that wishes to locate in Michigan and would modernize an outdated standard for the prizes awarded in redemption games.

Opposing Argument

As passed by the House, the bill specified that noncash prizes would not include a gift card, cash, or any equivalent of cash, or a play on a game of chance, bingo, or instant

bingo or a State lottery ticket. This provision should be included to help distinguish redemption games and their prizes from gambling and the proceeds of gambling.

Response: The proposed language is unnecessary, because redemption games already are clearly distinguished from gambling. Under the Code, the exemption from gambling prohibitions applies only to games of skill, not games of chance as in casino gaming or lottery participation, and only noncash prizes, toys, novelties, or coupons or other representations of value that are redeemable for noncash prizes may be awarded. In addition, the Code clearly states that redemption games do not include games such as roulette, beano, cards, dice, wheel of fortune, video poker, slot machines, or other games in which winning depends primarily upon fortuitous or accidental circumstances beyond the player's control.

Also, a representative of redemption game businesses testified before the Senate Economic Development and Regulatory Reform Committee that while gift cards redeemable for merchandise at area retailers are awarded, cards that may be redeemed for cash are not. The use of gift cards can help local businesses and should continue to be allowed, but cash-redeemable cards already are prohibited because the exemption applies only to noncash prizes.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would not be convicted of gambling offenses involving an accumulation of redemption coupons or other representations of value worth more than \$250 but not more than \$500. To the extent that the bill would decrease convictions, local governments would incur decreased costs of misdemeanor probation and incarceration in local facilities, which vary by county. Public libraries would receive reduced penal fine revenue.

Fiscal Analyst: Matthew Grabowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.