

LOUISIANA

I. Definition of Gambling

Louisiana Code applies a broad definition of gambling.

“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.” La. Rev. Stat. Ann. § 14:90(A)(1)(a) (2009). “Gambling” means playing or gaming for money or other stakes. *City of Lake Charles v. Marcantel*, 51 So. 106, 107-08 (La. 1910). “[A]ny game may be played for money or other stakes thus making it ‘gambling’” *Id.* at 108.

The state does not use a predominance test, but rather seems to follow an “any chance” approach to look for gambling. La. Rev. Stat. Ann. § 15:31(C) (2009) also follows an “any chance” test where it allows for confiscation of devices that involve “an element of chance.”

II. Definition of Bookmaking

Louisiana does not have statutory, attorney general opinions, or case law defining bookmaking.

III. Specific Gaming Device Definitions

Illegal Lottery Device means: (1) “Any device of any sort whatsoever which utilizes a cathode ray tube or video screen upon which symbols, numbers, cards, figures, facsimiles, or data appear for observation by the player and which is equipped with either:

(a) A cash automatic payout device, or

(b) A capability, design, device, or programming capable of releasing free games, credits, or replays and a capability, design, device, or programming to record the free games, credits, or free plays so released;” or

(2) “Any video device which accepts coins or credits for the purpose of advancing the odds or benefits to the player for successful completion of the object of play, or which may award a cumulative total in excess of fifteen free games or replays.” La. Rev. Stat. Ann. § 47:9075 (2009). All such devices may be confiscated and destroyed.

‘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.” La. Rev. Stat. Ann. 27:205(13) (2009).

Antique slot machines (25 years or older) may lawfully be possessed if not used for gambling. La. Rev. Stat. Ann. § 15:31.1.

“‘Gaming equipment’ means any mechanical, electrical, or other contrivance used to facilitate the risking of loss of anything of value in order to realize a profit.” La. Rev. Stat. Ann. § 47:7002. La. Rev. Stat. Ann. § 47:7001 through § 47:7006 regulate and license gaming equipment.

“‘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.” La. Rev. Stat. Ann. § 27:205(13)(2009).

“‘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.” La. Rev. Stat. Ann. § 27:205(32)(2009); La. Rev. Stat. Ann. § 27:44(24)(2009).

A Golden Tee golf video game, which allows players to compete nationally for prizes, is an illegal gambling device despite being a skill game; the statues defining slot machine clearly include skill games in the definitions. 00 Op. Att’y Gen. 478 (2000).

“‘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.” La. Rev. Stat. Ann. § 27:301(B)(15)(2009).

IV. Bucket Shop Laws

Louisiana does not have statutory, attorney general opinions, or case law regarding bucket shops.

V. Prohibition of Games of Skill

1. Poker/Card Games

“[I]t is a matter of common knowledge concerning which there can be no doubt or dispute that 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*, 51 So. 106, 107 (La. 1910).

2. Dice

Louisiana does not have statutory, attorney general opinions, or case law governing games using dice.

3. Billiards

Municipalities of less than 5000 inhabitants may regulate pool rooms. La. Rev. Stat. Ann. § 33:4854 (2009).

Betting on a game of pool does not make it gambling; it is a skill game. *State v. Quaid*, 10 So. 183 (La. 1891).

4. Bowling

Louisiana does not have statutory, attorney general opinions, or case law governing bowling games.

5. Darts

Louisiana does not have statutory, attorney general opinions, or case law governing dart games.

VI. Express Exemptions

1. Social Gaming

Louisiana does not have statutory, attorney general opinions, or case law granting a social gaming exemption.

2. Charitable Gaming

Louisiana has a Charitable Raffles, Bingo, and Keno Licensing Law. La. Rev. Stat. Ann. § 4:701 *et seq.* (2009). The state regulates the area heavily to prevent organized crime from becoming involved and taking profits from bona fide charities. Like most states, charitable organization is defined with reference to the Internal Revenue Code. La. Rev. Stat. Ann. § 4:703(2009). The office of charitable gaming is created to promulgate rules and to regulate the area. La. Rev. Stat. Ann. § 4:704(2009). Each parish decides whether to allow charitable gaming within its jurisdiction. La. Rev. Stat. Ann. § 4:706(2009). The other sections regulate office duties and powers, games allowed, license application, applicant qualifications, fees, special licenses (2 annual games), hearings, office control and supervision over games, time and money restrictions for games, books and records, examination of employees, licensure, building lessors, office

enforcement duties, education of local law enforcement, equipment suppliers, progressive pull-tabs, funds disposition, progressive bingo, compulsive hone number, and related matters. La. Rev. Stat. Ann. § 4:701 to § 4:740(2009).

A charity that earned money for the benefit of animals (exotic cats) did not fall under these sections because the money was for the benefit of animals and not human beings. *Exotic Feline Survival Ass'n, Inc. v. City of Hammond*, 479 So.2d 645, 647-48 (La. Ct. App. 1985).

3. Chucky Cheese Exemption

Louisiana does not have statutory, attorney general opinions, or case law granting a Chucky Cheese exemption.

4. Commercial

See Section X, outlining state gambling businesses.

5. Lottery

The constitution specifically allows for a State lottery. La Const. art. 12, § 6. The Louisiana Lottery Corporation Law begins at La. Rev. Stat. Ann. § 47:9000(2009). The sections of the act regulate the creation of the Louisiana Lottery Corporation, the board of directors and president, corporation officers, corporation records, board powers and duties, rulemaking power, reports, president powers and obligations, commercial advertising on tickets, employee rules, employee background checks, grievance procedures, legislative oversight, bulk sales prohibition, compulsive gambling, financial statements, prizes and payments, disposition of revenues, retailers, vendors, proceeds, commingling, retailer liability, ticket sale terms, age restrictions, crimes and penalties, employment restrictions, political activity restrictions, legal lottery devices and shipments, and related matters. La. Rev. Stat. Ann. § 47:9000 to § 47:9081(2009).

Raffles, bingo, and keno are all lotteries. 56 Op. Att'y Gen. 58, p. 130 (1956).

6. Horseracing & Other Pari-mutuel

State horseracing and pari-mutuel regulations begin at La. Rev. Stat. Ann. § 4:141(2009). The purpose of the sections is to allow wagering on horse racing and to keep corruption out of the business. The sections create the Louisiana State Racing Commission, which regulates the industry. La. Rev. Stat. Ann. § 4:144(2009). The subsequent statutes discuss commission powers and duties, membership requirements, officers, employees, venue, race requirements, race days, jockeys, ownership, wagering rules, "other track wagering," interstate wagering, compulsive phone number, account wagering, licenses, bookkeeping and production, appeal procedures, fines and suspensions (imposed by commission), races, Sunday rules, minors (must be 6 to attend race), licensing criteria, termination for cause, fees, attendance payments and reports, awards to promote breeding, wagering types, crimes and penalties, and related matters. La. Rev.

Stat. Ann. § 4:144 to § 4:198(209). The sections after that permit and regulate off-track wagering. La. Rev. Stat. Ann. § 4:211 to § 4:227(2009). Any parish which did not vote to allow such wagering under this section no longer has authority to hold an election to decide the issue in the absence of specific legislation allowing such an election. 05 Op. Att’y Gen. 0019 (2005). The state compact with other states regarding interstate wagering is set forth in La. Rev. Stat. Ann. § 4:275 to § 4:278(2009).

Dog racing is prohibited in the state. La. Rev. Stat. Ann. § 4:249(2009).

Pari-mutuel wagering is regulated by La. Rev. Stat. Ann. § 27:351 to § 27:393(2009) which is the Louisiana Pari-mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act. Power over racing is vested in the Louisiana State Racing Commission. La. Rev. Stat. Ann. § 27:354(2009). Slot machines are permitted at racing facilities and must offer the same payout percentages as riverboat machines. La. Rev. Stat. Ann. § 27:355(2009). To offer slot machines at a racing facility, they must first be approved by a parish election. La. Rev. Stat. Ann. § 27:381(2009). Slot machines are regulated by La. Rev. Stat. Ann. § 27:361 to § 27:377(2009) which gives power over them to the Gaming Control Board.

VII. Specific Internet Prohibition

Gambling by computer is 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 when accessing the Internet. La. Rev. Stat. Ann. § 14:90.3(2009).

Up to six months imprisonment and \$500 fine.

Whoever designs, develops, manages, supervises, maintains, provides, or produces any computer services related to internet gambling may be punished by up to 5 years and \$20,000.

Certain parties, such as Internet Service Providers, are exempted from liability unless they are purposefully conducting gambling as a business.

VIII. Gaming Crimes & Penalties for Unlawful Gaming

Gambling is a crime only to the extent specifically designated so by legislature. *Theriot v. Terrebonne Parish Police Jury*, 436 So.2d 515, 517 (La. 1983).

The state Attorney General may bring proceeding for the dissolution of a corporation involved in illegal gambling; under certain circumstances, this can happen when an officer of the corporation is involved in the illegal activity. La. Rev. Stat. Ann. § 12:1041(2009).

Forged Lottery Tickets: Imprisoned at hard labor not less than 5 years nor more than 20 years. La. Rev. Stat. Ann. § 47:9071(2009).

Skimming Lottery Proceeds: less than \$1000: up to 5 years hard labor and up to \$5000; \$1000 to \$10,000: 3 to 10 years hard labor and up to \$25,000;

More than \$10,000: 10 to 25 years hard labor and up to \$50,000. La. Rev. Stat. Ann. § 47:9073(2009).

False Statements Relating to a Lottery: 5 to 10 years hard labor and up to \$25,000 or the amount of the false entry. La. Rev. Stat. Ann. § 47:9074(2009).

Betting at a Boxing or Wrestling Match: open betting or odds quoting at a boxing or wrestling match is prohibited. La. Rev. Stat. Ann. § 4:81(2009). Penalty is ejection from the match.

Gambling houses: A gambling house is a place where games of chance are played and wagered on and someone profits other than by being a participant. A gambling house is also a place where wagering upon races, athletic contests, sports and games of chance takes place, but the races, athletic contests, sports and games of chance do not actually take place there. Gambling houses are public nuisances La. Rev. Stat. Ann. § 13:4721(2009). Anyone continuing to operate such a place after it has been enjoined is guilty of contempt of court. La. Rev. Stat. Ann. § 13:4725(2009).

Cheating: it is illegal, by trick or fraud, to attempt to win a wager, to attempt to reduce a losing wager, or to attempt to increase a winning wager, in connection with gaming operations. La. Rev. Stat. Ann. § 14:67.18(2009).

\$0 - \$300: up to 6 months prison and up to \$500 fine; if a person has two previous such offenses, then the maximum penalties go up to 2 years and \$2000.

\$300 - \$500: up to 2 years prison and up to \$2000 fine.

\$500+: up to 10 years prison and up to \$3000 fine.

“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.” La. Rev. Stat. Ann. § 14:90(A)(1)(a)(2009). Any gambling made illegal by ordinance must fall within this definition of gambling. *State ex rel. Corbello v. Bond*, 441 So.2d 742, 744 (La. 1983). A game where participants pay one dollar to shoot at a target, and once enough dollars have been collected, a prize is given out to the best shooters, is not gambling since the prize was based on the skill of the marksmen. 52 Op. Att’y Gen. 54, p. 57 (1952).

Gambling: gambling is punishable by up to six months in prison and up to \$500 fine. Whoever conducts, finances, manages, supervises, directs, or owns an illegal gambling business that meets certain requirements can be imprisoned up to 5 years and fined up to \$20,000. La. Rev. Stat. Ann. § 14:90. Gambling on cruise ships is declared not to be gambling when coming from a port

outside the United States and coming to a parish with population greater than 475,000. The statute does not cover mere patrons of a gaming establishment. La. Rev. Stat. Ann. § 14:90(2009), Reporter's Comment, Scope. It also does not cover gambling between individuals. *Gandolfo v. Louisiana State Racing Com'n*, 78 So.2d 504, 508 (La. 1954).

Gambling in Public: participation in any game, contest, lottery, or contrivance, in any place open to the view of the public whereby a person risks the loss of anything of value in order to realize a profit. La. Rev. Stat. Ann. § 14:90.2(A)(2009). Buildings and commercial establishments are not 'open to the view of the public;' the statute only covers road, parks, beaches and similar areas. *State v. Young*, 457 So.2d 205, 205-06 (La. Ct. App. 2 Cir. 1984).

Punishable by up to 6 months in prison and up to \$500.

Gambling by Computer: Gambling by computer is 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 when accessing the Internet. La. Rev. Stat. Ann. § 14:90.3(2009).

Up to six months imprisonment and \$500 fine.

Whoever designs, develops, manages, supervises, maintains, provides, or produces any computer services related to internet gambling may be punished by up to 5 years and \$20,000. Certain parties, such as Internet Service Providers, are exempted from liability unless they are purposefully conducting gambling as a business.

Minors playing video poker: it is unlawful for someone less than 21 years old to play video poker. La. Rev. Stat. Ann. § 14:90.4.

First offense: up to \$100; Second offense: up to \$250; Third offense: up to \$500.

Minors playing other games: it is unlawful for someone less than 21 years old to play casino games, gaming devices, or slot machines. La. Rev. Stat. Ann. § 14:90.5(2009).

Punishable by up to 6 months imprisonment and up to \$500.

Minors: enticing or permitting someone under 17 to visit a gambling place is a crime. La. Rev. Stat. Ann. § 14:92(2009).

Punishable by up to 6 months imprisonment and up to \$500.

Vagrancy: habitual gamblers or persons who maintain themselves by gambling are guilty of vagrancy. La. Rev. Stat. Ann. § 14:107(2009).

Punishable by up to 6 months imprisonment and up to \$200.

Political contributions: persons involved in the gaming industry are forbidden from making political contributions. La. Rev. Stat. Ann. § 18:1505.2(L)(2009).

Local Laws: Municipalities with more than 5000 and less than 100,000 residents may pass ordinances prohibiting gambling and providing penalties. La. Rev. Stat. Ann. § 33:4851(2009). But they do not have power to define “gambling;” to be illegal gambling, an activity must be conducted as a business. *City of Alexandria v. La Combe*, 57 So.2d 206, 209 (La. 1952). But another statute does allow then to define gambling for local purposes.

Local Laws: “ 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.” La Rev. Stat. Ann. § 33:4851.1(2009).

Local Laws: parishes can prohibit betting on card games La. Rev. Stat. Ann. § 33:4852(2009).

IX. Statute of Anne/ Recovery of Debts

Louisiana law leaves gamblers in the position in which it finds them. A person winning a wager at gaming or by a bet, except for games tending to promote skill in the use of arms, cannot sue to collect the winnings. La Civ. Code Ann. art. 2983(2009). A losing bettor, who pays, cannot sue to recover money already paid. La Civ. Code Ann. art. 2984.

Those statues do not prevent recovery of wins and losses associated with lawful gambling. *TeleRecovery of Louisiana, Inc. v. Gaulon*, 738 So.2d 662, 664 (La. Ct. App. 5 Cir. 1999).

The fact that gambling takes place in a state where it is legal (Nevada), does not give a person a right to sue for recovery under a gambling contract. *Lauer v. Catalanotto*, 522 So.2d 656, 657-58 (La. Ct. App. 1988).

Under the Louisiana Uniform Commercial Code, even a holder in due course of an instrument (check) is subject to the maker’s defense of illegality. La. Rev. Stat. Ann. § 10:3-305(2009). Comment 1 to the section says that illegality is most often a matter of gambling.

X. Lawful Commercial Casino Gaming

In 1996, voters in each parish decided whether land-based casinos, riverboats, and video poker (or any combination of the three) would be allowed in the parish. La. Rev. Stat. Ann. § 18:1300.21(2009).

No expansion of gambling is valid unless approved by a majority of voters in the parish in which the activity is to take place. La. Const. art. 12, § 6. La. Rev. Stat. Ann. § 18:1300.22(2009) and § 18:1300.23(2009) regulate some aspects of these elections. But this constitutional provision is

intended only to affect expansion of new types of gambling or into new areas; a parish that already has off-track betting and video poker can add more without an election. *Castille v. Old Evangeline Downs, L.L.C.*, 927 So.2d 598, 601-02 (La. Ct. App. 3 Cir. 2006).

Check-cashing facilities must be located no closer than 300 feet to a gaming establishment. La. Rev. Stat. Ann. § 6:423(2009).

Audits of gaming operations may be performed periodically; the purpose is to ensure that industry regulators are properly performing their functions. La. Rev. Stat. Ann. § 24:513.3(2009).

Assistance for compulsive gamblers is provided for in La. Rev. Stat. Ann. § 28:841(2009).

The Louisiana Gaming Control Law regulates gaming in the state. La. Rev. Stat. Ann. § 27:1 *et seq.* The act creates the Louisiana Gaming Control Board. La. Rev. Stat. Ann. § 27:11(2009). This part of the act regulates many aspects of the board including board authority and responsibilities, prohibited financial interests, chairman powers and duties, records, reports, rulemaking, hearings, compulsive gambling, excluded persons, supplier permits, employee permits, crimes and penalties, and many other closely related matters. La. Rev. Stat. Ann. § 27:11 to § 27:30.6(2009).

Riverboat gambling is regulated by La. Rev. Stat. Ann. § 27:41 to § 27:200(2009). The act allows riverboat gaming only on designated waterways. La. Rev. Stat. Ann. § 27:43(2009). The riverboats are regulated by the Riverboat Gaming Commission, created by La. Rev. Stat. Ann. § 27:51(2009). The regulations are enforced by the Gaming Enforcement Division, created by La. Rev. Stat. Ann. § 27:55(2009).

The remaining statutory sections cover licenses, inspections, records, commission powers and duties, enforcement powers and duties, ethics, disclosures, gaming while docked, application process, license renewal, manufacturer and supplier licenses, employee permits, racehorse wagering on riverboats, fees, crimes, penalties, appeals, and other related matters. La. Rev. Stat. Ann. § 27:41 to § 27:200(2009).

The Louisiana Economic Development and Gaming Corporation Law is found in La. Rev. Stat. Ann. § 27:201 through § 27:286(2009). The act allows for commercial casinos in parishes with 490,000 or higher population according to the latest census. La. Rev. Stat. Ann. § 27:205(2009). La. Rev. Stat. Ann. § 27:210(2009) creates the Louisiana Economic Development and Gaming Corporation. La. Rev. Stat. Ann. § 27:220 through § 27:229(2009) lay out the powers and duties of the board.

Other provisions cover a wide range of matters including more corporate responsibilities and requirements, casino operator requirements, hearings, records, wagering, types of games permitted, casino support services, requirements for casino operating contract, local hiring and

goods requirements, licenses, fees, registrations, fees, crimes, penalties, appeals, and many other closely related matters. La. Rev. Stat. Ann. § 27:201 to § 27:286(2009).

La. Rev. Stat. Ann. § 27:301 to § 27:326(2009) is the Video Draw Poker Devices Control Law, which regulates video poker devices in the state. The games must not dispense anything of value except a required ticket voucher that can be redeemed for cash. La. Rev. Stat. Ann. § 27:301(15)(2009). Specifications for the machines are heavily regulated and include permanent recordkeeping of several game play statistics. La. Rev. Stat. Ann. § 27:302(2009). The maximum bet allowed is \$2 and the maximum payout is \$500 La. Rev. Stat. Ann. § 27:304(2009). Payback percentages must be at least 80% and must be verifiable by the machine. La. Rev. Stat. Ann. § 27:305(2009).

The remaining sections cover licensing qualifications, rules and regulations for the games, powers and duties of the board, violations and penalties, license or permit suspension, crimes and penalties, character requirements for licensing, fees, employee permits, employee suitability, temporary work permits, transferability of employee permit from one employer to another, disposition of state revenues, investigations and hearings, prohibited relationships, residence and domicile requirements, age restriction (21), compulsive phone number, check cashing prohibition, funds to supplement horse racing industry, allowance of local zoning restrictions on video poker, promotional activities, and other related matters. La. Rev. Stat. Ann. § 27:301 to § 27:326(2009).

Raffles may be held by any person 21 or older for any purpose so long as the prize does not exceed \$250. La. Rev. Stat. Ann. § 27:402(2009).