

# STATE OF NEW YORK

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5541

2021-2022 Regular Sessions

## IN SENATE

March 10, 2021

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Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the alcoholic beverage control law, in relation to skill based amusement games

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The alcoholic beverage control law is amended by adding a  
2 new section 132 to read as follows:

3 § 132. Skill based amusement games. 1. As used in this section, "skill  
4 based amusement game" means a game played in exchange for consideration  
5 of cash, credit or other thing of value on a fixed, commercial elec-  
6 trical gaming device consisting of one or more player stations in which  
7 the strategy and skill of the player, rather than any inherent element  
8 of chance, is the primary factor in determining the outcome, and for  
9 which the player may be awarded a prize or other thing of value for a  
10 successful outcome, and meets the following criteria:

11 (a) "Skill" means the human attributes of a player such as knowledge,  
12 dexterity, visual cognition, logic, memory, reaction, strength, agility,  
13 athleticism, hand-to-eye coordination, numerical and/or lexical ability,  
14 or any other ability or expertise relevant to game play.

15 (b) A single play on a skill based amusement game shall begin with  
16 consideration and a player action and end when no further progress can  
17 be made without additional consideration.

18 (c) The ability of any player to succeed at the game shall not be  
19 impacted by the number or ratio of prior wins to prior losses of players  
20 playing the game, including through the use of a compensating algorithm.

21 (d) Neither the occurrence of a chance event that cannot be altered by  
22 a player's action nor the output of a random number generator shall  
23 determine the outcome of a game.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (e) A skill based amusement game shall have no automatic winners, and  
2 no prize shall be awarded without application of the player's skill and  
3 strategy.

4 (f) Increased game prizes shall require a higher level of skill and  
5 strategy from the player.

6 (g) A skill based amusement game shall require that skill be used  
7 during the main play of the game and not only at the end of a game.

8 (h) The player shall have available a means to win more than the cost  
9 to play on every game played.

10 (i) The skill required to succeed shall not be so difficult that a  
11 normal, average person cannot achieve success.

12 (j) The player shall have access to information that identifies every  
13 possible award type and such information shall be accessible at all  
14 times, except during a game in progress.

15 (k) A skill based amusement game on an electrical gaming device shall  
16 not be a facsimile of a casino table game, card game, bingo game or  
17 spinning reel game.

18 (l) A user of a skill based amusement game shall be at least twenty-  
19 one years of age.

20 2. The authority shall license manufacturers, operators and locations  
21 of skill based amusement games pursuant to rules and regulations promul-  
22 gated by the authority. Fees for such licenses shall be five thousand  
23 dollars for a manufacturer, five hundred dollars for an operator, and  
24 one hundred dollars for a location. Locations shall only be licensees  
25 for sale of alcohol at retail issued pursuant to the provisions of this  
26 chapter, excluding racetracks and casinos.

27 3. Each manufacturer shall provide access to a data collection and  
28 management system to the authority which shall collect and report the  
29 following information from each device: (a) cash in, (b) payouts, (c)  
30 points played, (d) points won, (e) gross terminal income, (f) net termi-  
31 nal revenue, (g) the number of plays of the game, (h) the amounts paid  
32 to play the game, and (i) any other information required by regulations  
33 of the authority.

34 4. There is hereby imposed a tax of ten percent of gross device reven-  
35 ue. "Gross device revenue" means the total of cash or cash equivalents  
36 received by a skill based amusement game terminal device minus the total  
37 of cash or cash equivalents paid out to players as a result of playing  
38 such skill based amusement game. Such tax shall be calculated and paid  
39 to the authority by each manufacturer on a monthly basis based on the  
40 gross device revenue earned during the prior month. Taxes collected  
41 pursuant to the provisions of this section shall be deposited in the  
42 state general fund.

43 § 2. This act shall take effect on the ninetieth day after it shall  
44 have become a law. Effective immediately, the addition, amendment  
45 and/or repeal of any rule or regulation necessary for the implementation  
46 of this act on its effective date are authorized to be made and  
47 completed on or before such effective date.