



## Legislation Text

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**File #:** 1761-2011, **Version:** 1

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The City of Columbus has experienced a proliferation of Adult Gaming Parlors that utilize computer terminals or stand alone machines also referred to as "sweepstakes terminal devices." These devices allow a participant to play a game in return for a prize or item of value. Currently, there is no state regulation or oversight of these types of businesses, allowing them to exploit a glaring loophole in state gambling laws.

The state's failure to regulate Adult Gaming Parlors has created a legal quagmire for cities across Ohio. In addition, judges across the state have issued conflicting rulings regarding the legality of these establishments. The Ohio Legislature is considering legislation that will require these businesses to be licensed and regulated by the Ohio Casino Control Commission. Absent this action, law enforcement, consumers, and charities cannot operate in a fair, consistent legal environment.

Municipalities have the power to enact planning and zoning laws that are for the health, safety, and welfare, comfort and peace of the municipality. At this time, Adult Gaming Parlors are not specifically listed as a permitted use in the City's zoning code. City Council finds it necessary to review Adult Gaming Parlors to determine their compatibility with City's land use plans and their effects on surrounding land uses. It is for this reason that City Council is directing the Director of Building and Zoning Services to impose a moratorium of 180 days on the processing, or approval of any application for a certificate of zoning clearance, building occupancy permit, or any other permit or approval required under the Zoning Code or the Building Code, for any premises upon which, or building in which, any sweepstakes terminal device is, or is proposed to be, located.

To authorize and direct the Director of Building and Zoning Services Service to impose a moratorium of 180 days on the processing or approval of any application for a certificate of zoning clearance, building occupancy permit, or any other permit or approval required under the Zoning Code or the Building Code, for any premises upon which, or building in which, any Adult Gaming Parlor and sweepstakes terminal device is, or is proposed to be, located, and to declare an emergency.

**WHEREAS**, the City of Columbus has experienced a proliferation of Adult Gaming Parlors that utilize computer terminals or stand alone machines also referred to as "sweepstakes terminal devices", which currently have no state regulation or oversight allowing them to exploit a glaring loophole in state gambling laws, and;

**WHEREAS**, the state's failure to regulate Adult Gaming Parlors has created a legal quagmire for cities across Ohio. In addition, judges across the state have issued conflicting rulings regarding the legality of these establishments, and;

**WHEREAS**, the Ohio Legislature is considering legislation that will require these businesses to be licensed and regulated by the Ohio Casino Control Commission, and absent this action, law enforcement, consumers, and charities cannot operate in a fair, consistent legal environment, and;

**WHEREAS**, municipalities have the power to enact planning and zoning laws that are for the health, safety, and welfare, comfort and peace of the municipality. At this time, Adult Gaming Parlors are not specifically listed as a permitted use in the City's zoning code, and;

**WHEREAS**, City Council finds it necessary to review Adult Gaming Parlors to determine their compatibility with City's

land use plans and their effects on surrounding land uses, and;

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Building and Zoning Services in that it is immediately necessary to impose a temporary moratorium on the processing or approval of certificates, permits and approvals under Zoning and Building Codes for internet sweepstakes cafes to allow for the State's consideration of statewide regulation of this unregulated activity and for the City's consideration of their compatibility with the City's land use plans and their effects on surrounding land uses, thereby preserving the public health, peace, property, safety, and welfare; now, therefore:

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That the Director of Building and Zoning Services Service is hereby directed to impose a moratorium of 180 days on the processing or approval of any application for a certificate of zoning clearance, building occupancy permit, or any other permit or approval required under the Zoning Code or the Building Code, for any premises upon which, or building in which, any sweepstakes terminal device is, or is proposed to be, located. This moratorium shall not apply to any permit required to comply with an order or notice issued pursuant to Chapter 4109 of the Columbus City Codes dealing with Unsafe Buildings and Conditions.

**Section 2.** That for purposes of this Ordinance:

"Sweepstakes terminal device" means a mechanical, video, digital, or electronic machine or device, that is owned, leased, or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device whether or not any of the following apply:

- (a) The device is server-based.
- (b) The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
- (c) The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
- (d) The device selects prizes from a predetermined finite pool of entries.
- (e) The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
- (f) The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
- (g) The device utilizes software to create a game result.
- (h) The device requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device.
- (i) The device requires direct payment into the device, or remote activation of the device.
- (j) The device requires purchase of a related product.
- (k) Any related product of which purchase is required has legitimate value.
- (l) The device reveals the prize incrementally, even though the device does not influence the awarding of prize or the value of any prize awarded.
- (m) The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
- (n) The device is a slot machine or other form of electrical, mechanical, or computer game.

"Enter" or "entry" means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.

"Prize" means any gift, award, gratuity, good, service, credit, reward, or any other thing of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

"Sweepstakes" means any game, contest, advertising scheme or plan, or other promotion, but does not include bingo, whether or not consideration is required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance.

**Section 3.** That this Ordinance shall not apply in any manner to any device or activity authorized and regulated by the State Lottery Commission or the Ohio Casino Control Commission.

**Section 4.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or ten days after passage if the Mayor neither approves nor vetoes the same.