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121 N. LaSalle St.
Room 107
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Legislation Details (With Text)

File #: O2018-6347

Type: Ordinance **Status:** Failed to Pass

File created: 7/25/2018 **In control:** City Council

Final action:

Title: Amendment of Municipal Code Chapters 4-156 and 8-12 to further regulate automatic amusement and illegal sweepstakes devices

Sponsors: O'Connor, Patrick, Laurino, Margaret, Reilly, Brendan, Napolitano, Anthony V., Solis, Daniel, Burke, Edward M., Burnett, Jr., Walter, Beale, Anthony, Harris, Michelle A., Hairston, Leslie A., Dowell, Pat, Reboyras, Ariel, Maldonado, Roberto, Tunney, Thomas, Pawar, Ameya, O'Shea, Matthew J., Sawyer, Roderick T., Hopkins, Brian, Austin, Carrie M., Taliaferro, Chris, Santiago, Milagros, Mitts, Emma, Munoz, Ricardo, Arena, John, Cappleman, James, Quinn, Marty, Curtis, Derrick G., Waguespack, Scott, Foulkes, Toni, Moore, David H., Moore, Joseph, Sadlowski Garza, Susan, Lopez, Raymond A., Cardenas, George A.

Indexes: Ch. 12 Gambling, Ch. 156 Amusements

Attachments: 1. O2018-6347.pdf, 2. O2018-6347 (V1).pdf

Date	Ver.	Action By	Action	Result
5/29/2019	1	City Council	Failed to Pass	
10/22/2018	1	Committee on License and Consumer Protection	Remove Co-Sponsor(s)	
10/16/2018	1	Committee on License and Consumer Protection	Held in Committee	
7/25/2018	1	City Council	Referred	

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 4-156-150 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

4-156-150 Definitions.

As used in this chapter:

"Automatic amusement device" means any machine, which, upon the insertion of a coin, slug, token, card or similar object, or upon any other payment method, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score, and includes but is not limited to such devices as jukeboxes, marble machines, pinball machines, movie and video booths or stands^ and all games, operations or transactions similar thereto under whatever name by which they may be indicated. Bingo devices are deemed gambling devices and are therefore prohibited for use except as provided by state law. If a machine consists of more than one game monitor which permits individuals to play separate games simultaneously, each separate game monitor shall be deemed an automatic amusement device. "Automatic amusement device" includes a machine described above containing a free play option or other means to play the machine without payment, and the presence of such option or means is not a defense to a violation of this chapter.

"Illegal amusement device" means an automatic amusement device that: includes a knock-off circuit; or allows more than ten replays or free games, or maintains a count of payoffs or the number of times a person has won a game played on the device; or maintains a tally of players' scores other than the tally displayed to players; or fails to display in the required manner a tax emblem required by this chapter; or has been used for illegal gambling, or is an illegal sweepstakes device. "Illegal amusement device" does not include a device, other than an illegal sweepstakes device, that properly displays a required tax emblem, that is not used for illegal gambling and that qualifies either as a crane game as defined in the Illinois Criminal Code of 4S64 2012 or as a redemption machine as defined in the Illinois Criminal Code of 2012. An automatic amusement device shall not be deemed an illegal automatic amusement device because of internal diagnostic devices or capabilities that are able to record and maintain statistical data such as the number of coins or tokens deposited, the number of games played or the number of games won, if such diagnostic devices or capabilities are intended and used exclusively for auditing of game performance. It is the intent of this section to prohibit anv device that seeks to avoid application of this chapter through the use of anv subterfuge or pretense whatsoever.

(Omitted text is unaffected by this ordinance)

The phrase "tally of players' scores other than the tally displayed to players" does not include a record of scores, accessible to players of the device, and linked to previous players' names, nicknames, initials or other identifiers, for purposes of comparison and competition.

"Illegal sweepstakes device" means anv automatic amusement device that, whether or not the device can be or is used for illegal gambling as defined in the Illinois Criminal Code of 2012, can be used to (1) conduct a sweepstakes, including through the use of an entertaining display even if such entertaining display can be bypassed or turned off, including the entry process or the reveal of a prize: or (2) promote a sweepstakes that is conducted through the

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use of an entertaining display, even if such entertaining display can be bypassed or turned off, including the entry process or the reveal of a prize. "Illegal sweepstakes device" does not include: a coin-in-the-slot operated mechanical device played for amusement in compliance with 720 ILCS 5/28-2(a)W1V. a vending machine operated in compliance with 720 ILCS 5/28-2(a)(2V. a crane game operated in compliance with 720 ILCS 5/28-2(a)(3): a redemption machine operated in compliance with 720 ILCS 5/28-2(a)(4): or a licensed video gaming terminal operated in compliance with 720 ILCS 5/28-2(a)V5V

"Entertaining display" means visual information, capable of being seen by a sweepstakes entrant, before or after the sweepstakes prize is revealed, that takes the form of actual game play, or simulated game play, of games including, but not limited to, a poker game or anv other kind of playing card game: a bingo game: a craps game: a keno game: a lotto game, an eight-liner game: a pot-of-gold game: a game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player: a casino or gambling game: and anv other video game the outcome of which is not in whole or in part dependent on skill or dexterity, that is played in the course of revealing a prize as the result of an entry into a sweepstakes.

"Prize" means anv gift, award, gratuity, good, service, credit, cash, coin, currency, gift cards, or anything else 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 anv game, advertising scheme or plan, or other product promotion, which, with or without payment of anv consideration, a person may enter to win or become eligible to receive anv prize the value of which is not dependent upon play of the game, the determination of which is based upon an element of chance.

SECTION 2. Section 4-156-180 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

4-156-180 Installation prerequisites.

It shall be unlawful for the owner, manager, licensee, er- lessee~~A of any premises~~ or person in control of sugr any premises to permit the installation or use of an automatic amusement device within the City of Chicago for gain or profit unless the tax has been paid and is evidenced by a tax emblem affixed to the automatic amusement device in a conspicuous location. Each such device shall be plainly labeled with the name, address and telephone number of its owner. No person shall remove, alter or deface the tax emblem or label required by this section, or allow use of an automatic amusement machine if the tax emblem or label has been removed, altered, defaced or become illegible. The owner, manager, licensee, or lessee shall obtain from the seller or owner of such automatic amusement device, and retain in its business records, a copy of the proof of purchase or lease agreement for such automatic amusement device. The proof of purchase or lease must clearly state the name, address, and telephone number of the seller or owner. The owner, manager, licensee, or lessee of the premises where the device is placed for operation by the public and every person responsible for the premises shall be jointly and severally liable for a violation of this section.

The owner, manager, licensee, lessee, or anv person in control of premises where an automatic amusement device is used shall post a sign, visible in the area of the automatic amusement device. Such sign shall: (a) be posted in a conspicuous place: (b) be clearly visible to all persons entering an area with an automatic amusement device: and (c) made available on

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the website of the Department of Business Affairs and Consumer Protection, for viewing, downloading, printing and posting by the licensee. The sign shall include the following information:

- 1) The logo of the Citv and the Department of Business Affairs and Consumer Protection:
- 2) Text that reads: "Gambling is illegal under Chapters 4-156 and 8-12 of the Municipal Code of Chicago. If you suspect or witness gambling, contact 311."

Anv person violating the sign requirement shall be fined not less than \$200.00 nor more than \$500.00 for each offense. Every day such violation shall continue shall be regarded as a separate and distinct offense.

SECTION 3. Section 4-156-190 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through and inserting the language underscored, as follows:

4-156-190 Prohibition: Seizure for unlawful use.

a) It shall be unlawful for anv person to bring into the City, or have in his possession within the City, an illegal amusement device.

b) It shall be unlawful for the owner, manager, licensee, lessee, or person in control of anv premises to permit the installation or operation of an illegal amusement device.

c) If the mayor, superintendent of police, or the comptroller, the commissioner of business affairs and consumer protection, the city clerk, or their duly authorized enforcement officer shall have a reasonable basis for believing any automatic amusement device is an illegal amusement device, they may seize said device or any part or contents thereof may be seized by any duly authorized enforcement official, followed by an administrative hearing with notice to the owner within seven days of such seizure for the purpose of reviewing the appropriateness of the seizure, and held until such time as the owner of such device pays the delinquent tax, reimburses the department of finance, business affairs and consumer protection or the city clerk for

actual cartage cost incurred in the seizure and pays to the department of finance, business affairs and consumer protection or the city clerk \$20.00 for each day or part of day said device has been in storage, or, as an alternative to seizing such device, may post notice on it in accordance with this subsection. No person shall operate or allow the operation of any device so posted, and the owner, manager, licensee, lessee or person in control of the premises where such posted device is located, or their agent, shall promptly move the posted device to a location inaccessible to the general public and prohibit its use, or remove the posted device to a location outside the City. Notice that a device has been seized shall be provided via mail to the owner or operator of the device as indicated on the device. The notice, whether mailed or posted, shall include information advising the owner or operator of such device on how to request a hearing to determine whether such device is in violation of this chapter. The owner or operator of the device must request a hearing in person or in writing, at the department of administrative hearings, within 14 days if the device was seized, or within 90 days if the device was posted, or else the device shall be considered forfeited and may be confiscated and destroyed by the city. If the owner or operator of the device timely requests a hearing under this subsection, the hearing shall be commenced at the department of administrative hearings within 30 days of the request for a hearing. If criminal charges involving the use or condition of the device are pending, the device shall be held or remain posted until disposition of the criminal

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charges, notwithstanding any determination made at the administrative hearing. If it is determined at the hearing by a preponderance of the evidence that the seized device is not an illegal amusement device, it shall be returned to the owner or operator without charge if it was seized, or alternatively, if it was posted, the owner or operator may remove any posted notice, and the restriction on the use of the device shall be considered lifted. If it is determined at the hearing that the automatic amusement device was used for is an illegal gambling amusement device, it shall be destroyed by considered forfeited, and the city, and may confiscate and destroy the device. All att-money found within the device at the time of confiscation shall become the property of the city, and shall be used to defray the any costs of cartage, notice, storage and hearings. Any delinquent tax, actual cartage cost incurred in seizure of the device, and a storage fee of \$20.00 for each day or part of day a seized device is in storage, from seizure until the time it is destroyed, shall be imposed as an administrative penalty. Any administrative penalty imposed pursuant to this Section shall constitute a debt due and owing to the city which may be enforced in the manner provided by law. If the owner or operator of the device does not claim the any seized automatic amusement device within 14 days after the mailing of the notice a final order is entered determining that the device is not an illegal amusement device, the device and its contents will be treated as abandoned property and the device will may be destroyed.

SECTION 4. Chapter 4-156 of the Municipal Code of Chicago is hereby amended by inserting a new section 4-156-200, as follows:

4-156-200 Cooperation with inspections - Required.

The owner, manager, licensee, lessee or person in control of a premises, or their agent, who allows the installation or operation of an automatic amusement device or illegal amusement device within the City of Chicago shall:

- a) present valid government-issued identification when an investigator authorized under section 4-156-190(c) has identified himself and requested such identification;
- b) be prohibited from closing and locking safe doors and other doors, including but not limited to doors to closets and storerooms, when an authorized City investigator has identified himself and announced his intention to inspect the premises for compliance with the requirements of this Code;
- c) within thirty minutes of the arrival of any authorized City investigator charged with responsibility for inspecting the premises, have a person available on site to open any locked door where automatic amusement devices may be maintained; and

d) within thirty minutes of the arrival of any authorized City investigator charged with responsibility for inspecting the premises, have a person available on site to demonstrate the operation of any automatic amusement devices maintained within the premises.

The failure by a licensee or such licensee's agent to comply with this Section shall subject the licensee to the applicable penalty set forth in Section 4-156-280.

SECTION 5. Section 4-156-280 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

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4-156-280 Violation - Penalty.

a) The owner, manager, licensee, lessee, or person in control of premises containing an illegal amusement device or where an automatic amusement device is used for illegal gambling shall be subject to a fine of \$5,000.00 for each device so used. Any person violating any other provision of this chapter by possession or use of an illegal amusement device shall be fined not less than \$500.00 nor more than \$1,000.00 for each offense. Every day such violation continues shall constitute a separate and distinct offense. Fines under this section shall be in addition to suspension or revocation of business licenses issued under this Code, and in addition to confiscation and destruction of illegal amusement devices.

b) Upon a third violation of the provisions of this chapter relating to possession or use of an illegal amusement device occurring on the same premises for a period of five years, all City licenses issued for business activity on those premises shall be revoked, and no automatic amusement device may be placed on the premises for a period of one year from the date of revocation. Nothing in this section limits the authority of the Commissioner to revoke a license on a licensee's first or second violation during such period. For purposes of this subsection (b), "licensee" includes an employee or agent of a licensee.

c) Upon a third violation of the provisions of this chapter relating to possession or use of an illegal sweepstakes device occurring on the same premises within any twelve month period, all City licenses issued for business activity on those premises shall be revoked, and no automatic amusement device may be placed on the premises for a period of three years from the date of revocation. Nothing in this section limits the authority of the Commissioner to revoke a license on a licensee's first or second violation during such period. For purposes of this subsection (c), "licensee" includes an employee or agent of a licensee.

SECTION 6. Section 8-12-040 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

8-12-040 Devices for gambling.

a) No person shall expose any table, wheel, or device of any kind whatsoever, intended, calculated, or designed to be used for gaming or gambling or for playing any game for chance or hazard, in, upon or along any of the public ways or other public places of the city.

b) No person shall bring into the city or have in his possession within the city, for the purpose of gaming or gambling for money or other valuable thing, any table, wheel or other device of any kind or character whatsoever whereon or with which money or any other valuable thing may in any manner be played or gambled.

c) A device prohibited under this section shall include an electronic machine or game device having one or more of the following features:

ID a free play feature or mode that awards replay credits in exchange for payment to use the device and a way to remove or record the replay credits in exchange for something of value:

(2) that offers a person entry into any contest, competition, sweepstakes, scheme, plan, or other selection process that involves or is dependent upon an element of

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chance for which the person receives something of value, if that offer is incidental to or results from:

A) the payment or purchase of an item or service of value: or

B) the purchase or gratuitous receipt of a coupon, voucher, certificate, or other similar credit that can be redeemed for or applied towards something of value from such machine or device or elsewhere: or

(3) that allows a person to make a payment and play a simulated game including poker, blackjack, keno, lotto, bingo, or craps in exchange for something of value.

For purposes of this section, "payment" includes money, coins, or tokens submitted into a slot, or money used to purchase coupons, vouchers, certificates, or similar credits which can be applied toward an electronic machine or game device.

"Replay credit" means the extended right to play the game without additional charge, and shall be deemed something of value.

"Something of value" means cash, cash equivalent, credit, allowance, or an item that may be exchanged for any form of cash, cash equivalent, credit, or allowance. Something of value includes gifts, gift cards, awards, or other items or services that can be exchanged or redeemed for money.

(d) If the superintendent of police or the commissioner of business affairs and consumer protection, or their duly authorized enforcement officers, has a reasonable basis for believing any device is a device for gambling in violation of this Section, they may seize said device or any part or contents thereof, or, as an alternative to seizing such device, may post notice on it in accordance with this subsection. No person shall operate or allow the operation of any device so posted, and the owner, manager, licensee, lessee or person in control of the premises where such posted device is located, or their agent, shall promptly move the posted device to a location inaccessible to the general public and prohibit its use, or remove the posted device to a location outside the City. Notice that a device has been seized shall be provided via mail to the owner or operator of the device as indicated on the device. The notice, whether mailed or posted, shall include information advising the owner or operator of such device on how to request a hearing to determine whether such device is in violation of this Section. The owner or operator must request a hearing in person or in writing, at the department of administrative hearings, within 14 days if the device was seized, or within 90 days if the device was posted, or else the device shall be considered forfeited and may be confiscated and destroyed by the City. If the owner or operator of the device timely requests a hearing under this subsection, the hearing shall be commenced at the department of administrative hearings within 30 days of the request for a hearing. If it is determined at the hearing by a preponderance of the evidence that the device is not a device for gambling in violation of this Section, it shall be returned to the owner or operator without charge if it was seized, or alternatively, if it was posted, the owner or operator may remove any posted notice and the restriction on the use of the device shall be considered lifted. If it is determined at the hearing that the device is

a device for gambling in violation of this Section, it shall be considered forfeited and the City may confiscate and destroy the device. All money found within the device at the time of confiscation shall become the property of the city, and shall be used to defray any costs of cartage, notice, storage and hearings. Any delinquent tax, actual cartage cost incurred in seizure of the device, and a storage fee of \$20.00 for each day or part of day a seized device is in storage, from

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seizure until the time it is destroyed, shall be imposed as an administrative penalty. Any administrative penalty imposed pursuant to this section shall constitute a debt due and owing to the city which may be enforced in the manner provided by law. If criminal charges involving the use or condition of the device are pending, the device shall be held or posted until disposition of the criminal charges, notwithstanding any determination made at the administrative hearing. If the owner or operator of the device does not claim any seized device within 14 days after a final order is entered determining that the device is not a device for gambling in violation of this Section, the device and its contents will be treated as abandoned property and the device may be destroyed.

(e) This section does not prohibit lawful activities carried out:

- 1) in accordance with the Illinois Lottery Law, 20 ILCS 1605/1. et seq., the Raffles and Poker Runs Act, 230 ILCS 15/0.01. et seq., the Illinois Pull Tabs and Jar Games Act, 230 ILCS 20/1. et seq., the Bingo License and Tax Act, 230 ILCS 25/1. et seq., the Charitable Games Act, 230 ILCS 30/1. et seq., or the Native American Gaming Compact Act, 230 ILCS 35/1. et seq.;
- 2) as part of any lawful marketing promotion, contest, prize, or sweepstakes that is designed to attract consumer attention to a specific product or service offered for sale by the manufacturer, distributor, vendor, or retailer of the product or service operated in accordance with applicable law; or
- 3) on machines which confer only tickets or credits that can be redeemed for toys, candy, or electronic novelties offered at the same facility where the amusement device is located.

SECTION 7. Section 8-12-100 of the Municipal Code of Chicago is hereby amended by deleting the struck-through language and inserting the underscored language, as follows:

8-12-100 Violation - Penalty.

Any person violating any provision of this chapter, where no other penalty is specified, shall be fined not less than ~~\$25.00~~ \$250.00 nor more than ~~\$200.00~~ \$1,000.00 for each offense. Each device found to be in violation shall constitute a separate and distinct offense.

SECTION 8. This ordinance shall take full force and effect 60 days after passage and publication

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Chicago City Council Co-Sponsor Form

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