



## Legal Update

August 16, 2012

### An Act Relative to the Regulation of Cyber Cafes

#### Chapter 187 of the Acts of 2012

On August 1, 2012, Governor Patrick signed “*An Act Relative to the Regulation of Cyber Cafes.*” This legislation amends G.L. c. 271 by inserting section 5B, which bans illegal online slot parlors, or so called “cyber cafes.” Attached is a copy of Chapter 187 of the Acts of 2012.

#### **Criminal Penalties in G.L. c. 271, § 5B:**

- It is unlawful to knowingly possess with the intent to operate, or to operate an electronic machine or device to promote or to conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize.
- A violation of this section carries a criminal penalty of up to \$250,000 per electronic machine or device, or by imprisonment in state prison for up to 15 years, or both fine and imprisonment.

#### **New Definitions in G.L. c. 271, § 5B:**

- “Electronic machine or device,” a mechanically, electrically or electronically operated machine or device that uses energy and is:
  1. owned, leased or possessed by a promoter, sweepstakes sponsor or any partners, affiliates, subsidiaries or contractors thereof;
  2. intended to be used by a sweepstakes entrant; and
  3. capable of displaying information on a screen or other mechanism.

An electronic machine or device may, without limitation:

1. be server-based;
2. use a simulated game terminal;
3. utilize software such that the simulated game influences or determines the winning or value of the prize;
4. select prizes from a predetermined finite pool of entries;
5. utilize a mechanism that reveals the content of a predetermined sweepstakes entry;

6. predetermine the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed;
  7. utilizes software to create a game result;
  8. require the deposit of payment;
  9. require direct payment or remote activation;
  10. require purchase of a related product having legitimate value;
  11. reveal the prize incrementally;
  12. determine and associate the prize with an entry at the time the sweepstakes is entered;
  13. be a slot machine or other form of electrical, mechanical, or computer game;
  14. include gambling devices as defined by G.L. c. 271, § 5A.
- “Enter” or “entry,” the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.
  - “Entertaining display,” any visual information, capable of being seen by a sweepstakes entrant, that takes the form of actual game play or simulated game play.
  - “Prize,” any gift, award, gratuity, good, service, credit or anything of value, whether possession of the prize is actually transferred or placed on account as evidence of intent to transfer the prize.
  - “Sweepstakes,” any game, scheme, plan or promotion, which, with or without payment, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.