

November 29, 2021

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Washington, DC 20530-0001.

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145 N Street NE, 3E.405A
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*Re: Comments Requested on Registration Under the Gambling Devices Act of 1962,
86 Fed. Reg. 53, 682, OMB No. 1123-0010*

Dear Ms. Hill and Ms. Braswell,

On behalf of the American Gaming Association (“AGA”), thank you for the opportunity to comment on Gambling Devices Act of 1962, 15 U.S.C. §§ 1171–78 (the “Johnson Act”).

Background

The AGA is the premier national trade group representing the \$261 billion U.S. casino industry, which supports 1.8 million jobs across the country. Our membership consists of 73 commercial and tribal casino operators, U.S.-licensed gaming suppliers and equipment manufacturers, financial institutions, food and beverage suppliers, and other key stakeholders in the gaming industry.

The gaming industry is one of the most highly regulated industries in the country. Our members strive to uphold the highest standards of consumer protection while providing significant contributions to our communities. Gaming companies are regulated at various levels, including by federal, state, and tribal agencies.¹

¹ To learn more about the rigorous licensing, compliance, and game integrity standards our industry upholds, please see a recent AGA whitepaper, *Skilled at Deception: How Unregulated Gaming Machines*

Among those obligations is compliance with the Johnson Act. Regulated gambling device manufacturers register annually with the U.S. Department of Justice. AGA member companies, along with other regulated gaming companies, that are engaged in the business of manufacturing, repairing, buying, selling, leasing, or using of gambling devices that enter interstate or foreign commerce, file a registration annually as required by the Johnson Act.

Analysis

The Johnson Act makes it unlawful to transport a gambling device in interstate or foreign commerce, unless the device is shipped to a state or tribal jurisdiction that has otherwise made such shipment or operation of these games lawful. That is, gambling devices can only be shipped into jurisdictions that have expressly authorized such commerce and activity. Gambling devices are defined in the Johnson Act as any slot machine or other machine or device that is designed primarily for use in gambling, where as a result of application of an element of chance and any money or property, a person may be entitled to win money or property. *See* 15 U.S.C. § 1171(a).

Should a business seek to manufacture, sell, or ship a gambling device in interstate commerce, they must register with the U.S. Department of Justice, pursuant to the Johnson Act. Failure to comply with the statute carries penalties of fines up to \$5,000 and up to two years of imprisonment, along with forfeiture of the unregistered gambling devices. 15 U.S.C. §§ 1176, 1177.

Registration with the Department of Justice under the Johnson Act is efficient and a minimal burden on companies that must report. Registration is completed via an online form, which reduces time and resources required for compliance. The registration is an effective method for the Department of Justice to collect information about companies engaged in manufacturing, sales, or shipment of gambling devices.

Unfortunately, there are a growing number of companies that design, manufacture, sell, or operate machines that mimic regulated gambling devices but operate without complying with state and federal laws. These games are extremely similar to regulated gambling devices, using drums or reels with insignia or other symbols that players “spin” to win prizes, including money. *See* 15 U.S.C. § 1171(a)(1). The manufacturers of such machines argue that their games are “skill-based” or operate in other “gray areas” of the law, thereby exempting them from regulation. However, these machines function similarly to traditional slot machines, and in fact, many consumers do not know the difference between regulated gambling devices and these “skill-based” or “gray” machines.²

Endanger Consumers and Dilute Investments in Local Economies, <https://www.americangaming.org/wp-content/uploads/2021/04/Unregulated-Gaming-Machines-White-Paper-Final.pdf>.

² For more information on how these unregulated gaming machine manufacturers operate, *see* Ass’n of Gaming Equip. Mfrs., *Unregulated Gaming Machine Fact Sheet*, Nov. 2021, <https://agemonline.org/factsheet.pdf>.

These illegal and unregulated machines put consumers at risk. While regulated gaming machines undergo rigorous testing to ensure game integrity and fairness, there is no such oversight for these illegal or unregulated games. Nor do the machines comply with anti-money laundering or cybersecurity standards established by relevant governing bodies. Further, while the regulated gaming industry invests hundreds of millions of dollars annually to support responsible gambling and works every day to ensure that regulated gaming is enjoyed responsibly, illegal and unregulated machines can prey on the most vulnerable consumers – including minors.

While states and tribal jurisdictions have extensive laws to regulate legal gaming companies and root out illegal or unregulated gambling operations, oftentimes federal support is necessary to effectively eliminate illegal actors. Federal, state, and local law enforcement work together to identify and remove these bad actors, but more information and intelligence is always necessary. The registration information required under the Johnson Act provides critical insight on companies that are complying with state and federal law—and on those who are not.

We urge the Department of Justice to utilize the information gathered via the Johnson Act to support investigation and prosecution of illegal gaming machine manufacturers. As state and local law enforcement strive to eliminate these bad actors, support and resources from the Department of Justice and federal law enforcement agencies are critical to eliminating illegal gambling devices from our communities.

Conclusion

The AGA appreciates the opportunity to comment on the impacts of the Johnson Act. While the gaming industry generally finds compliance with this statute to be efficient and effective, the information gathered by the Department of Justice could be valuable to critical law enforcement efforts around illegal and unregulated gambling machines that are unfortunately proliferating around the country.

Thank you again for your time and consideration, and we remain available to provide any further information that may be helpful.

Sincerely,

William C. Miller, Jr.
President & CEO
American Gaming Association