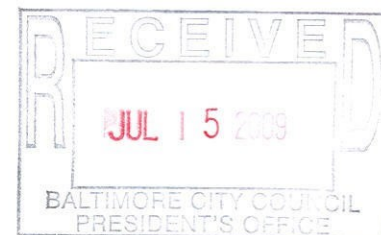


<b>FROM</b>	<b>NAME &amp; TITLE</b>	Elena R. DiPietro, Chief Solicitor	CITY of <b>BALTIMORE</b> <b>MEMO</b>	
	<b>AGENCY NAME &amp; ADDRESS</b>	Baltimore City Law Department Suite 101 City Hall		
	<b>SUBJECT</b>	Simulated Slot Machines		

**DATE** July 14, 2009

**TO**

The Honorable President and  
 Members of the Baltimore  
 City Council  
 c/o Karen Randle, Executive Secretary  
 409 City Hall  
 Baltimore, MD 21202



A question has arisen regarding whether the “simulated slot machines” that are the subject of City Council Bill 09-0290 are legal amusement devices. City Council Bill 290 establishes a definition for simulated slot machine in Article 15, Section 2-11(F). The definition states that simulated slot machine means “any amusement device equipped with a knock-off switch or knock-off button that enables an owner or custodian of the device to remove free plays or other game credits accumulated by a winning player.” Maryland law does provide that certain types of machines referred to as “slot machines” are illegal in the State. Criminal Law Article Section 12-301 defines “slot machine” as a machine, apparatus, or device that:

- (i) operates or can be made to operate by inserting, depositing, or placing with another person money, a token, or another object; and
- (ii) through the element of chance, the reading of a game of chance, the delivery of a game of chance, or any other outcome unpredictable by the user, awards the user:
  1. money, a token, or other object that represents or that can be converted into money; or
  2. the right to receive money, a token, or another object that represents and can be converted into money;
- (2) “slot machine” includes:
  - (i) a machine, apparatus, or device described in item (1) of this section that also sells, delivers, or awards merchandise, money, or some other tangible thing of value; and
  - (ii) a pinball machine or console machine that pays off in merchandise; and
- (3) “slot machine” does not include a machine, apparatus, or device that:
  - (i) awards the user only free additional games or plays;
  - (ii) awards the user only noncash merchandise or noncash prizes of minimal value;
  - (iii) dispenses paper pull tab tip jar tickets or paper pull tab instant bingo tickets that must be opened manually by the user provided that the machine, apparatus, or device does not:
    1. read the tickets electronically;
    2. alert the user to a winning or losing ticket; or
    3. tabulate a player's winnings and losses....

In State v. 158 Gaming Devices, 304 Md. 404 (1985), the court was asked to determine whether certain seized amusement devices were illegal slot machines. Although the Court was interpreting Art. 27, Section 264B and an earlier version of the definition of “slot machine,” the

Simulated Slot Machines

July 14, 2009

Page 2

Revisor's notes to Sec. 12-301, the recodified version of Section 264B in the new Criminal Law Article of the Maryland Annotated Code, states that "this section is new language derived without substantive change from introductory paragraph of the former Art. 27, Sec. 264B, as it defined "slot machine." The court in that case ruled that a "true amusement device which awards only free plays is not within the prohibition of Sec. 264B unless the device itself is adapted for gambling." "A free play device, equipped with gambling features such as odds mechanisms, a meter for recording the number of free plays released or other recognized indicia of a gambling device" would be considered a machine adapted for gambling. *Id.* at 432. The Court concluded that the seized devices that were coin-activated, free-play devices that involved an element of chance and which were equipped with odds mechanisms or a meter for recording the number of free plays released or other established indicia of a gambling device are illegal slot machines. On the other hand, those free-play devices, not adapted for gambling, which award automatic free-plays only, and which contain nothing more than a knock-off switch are not slot machines under the statutory definition." *Id.* at 436.

Considering the language of 158 Gaming Devices finding that machines containing nothing more than a "knock off switch" that provide for the award of free plays are not illegal slot machines and the language of Section 12-301(3) that states that "slot machine" does not include a machine the awards only free additional games and plays," the definition of "simulated slot machine" in the bill would not be interpreted as allowing the placement of illegal slot machines. Currently, machines could have been considered illegal because they were either unlicensed, were present in amounts in excess of those authorized by the Zoning Code or were adapted for gambling. This still holds true under the proposed legislation and those triggers remain in place to control legality of amusement devices/simulated slot machines in Baltimore City.

Cc: The Honorable Helen Holton  
The Honorable Robert Curran  
Hilary Ruley  
Ashlea Brown  
Minda Goldberg