

Joint statement from the Commonwealth's Attorney, County Attorney, Sheriff-elect, Sheriff, and Chief of Town Police.

Skill Games

Playing or Offering for Play Skill Games is Criminal Activity

In 2020, the Virginia General Assembly enacted laws declaring so called "Skill Games" to be illegal gambling devices. These laws, which were amended by the General Assembly in 2022, made possessing, operating, or playing Skill Games a criminal offense and provided both civil and criminal penalties for persons operating such devices. During this time, a lawsuit was filed in Emporia Circuit Court challenging the Skill Games ban and the court entered an injunction prohibiting enforcement of the ban until a trial could be held. Because of this injunction, many jurisdictions allowed these illegal gambling devices to continue to operate. On October 13, 2023, the Virginia Supreme Court vacated the lower court's decision and lifted the injunction preventing enforcement of the relevant code sections. On November 13, 2023, the court granted Summary Judgment in favor of the Commonwealth upholding the state law.

In light of these rulings and based upon the provisions of the Virginia Code that prohibit playing or offering play of Skill Games, the Amherst County Sheriff's Office and Amherst Town Police in cooperation with the Amherst County Commonwealth's Attorney and Amherst County Attorney's Office will resume enforcement **of the illegal gambling code sections related to "Skill Games" beginning on December 15, 2023**. This statement allows notice and time for each establishment to remove all illegal gambling devices.

What is a "Skill Game?"

Virginia Code §18.2-325(6) states:

"Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash or cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; or cash equivalents whether the payoff is made automatically from the device or manually. "Skill game" includes (i) a device that contains a meter or measurement device that records the number of free games or portions of games that are rewarded and (ii) a device designed or adapted to enable a person using the device to increase the chances of winning free

games or portions of games by paying more than the amount that is ordinarily required to play the game. "Skill game" does not include any amusement device, as defined in § 18.2-334.6.

Possible Punishment for Violation

Civil Penalties

Any person operating a Skill Game device or devices may be subject to a civil proceeding seeking:

1. a civil penalty in the amount of \$25,000 per gambling device,
2. an immediate injunction prohibiting operation of the gambling devices,
3. seizure of the gambling devices, and
4. costs associated with investigating and bringing the lawsuit, including attorney fees.

Criminal Penalties

Criminal charges under Virginia Code §18.2-331 for illegally possessing gambling devices and operating the devices for the advancement of unlawful gambling activity.

- The punishment for violating this statute is a Class 1 misdemeanor, which may result in confinement in jail for up to twelve months or a fine up to \$2,500, or both.

Criminal charges under Virginia Code §18.2-328 for being an operator of an illegal gambling enterprise, activity or operation.

- The punishment for violating this statute is a Class 6 felony, which may result in a term of imprisonment for up to five years, or confinement in jail for up to twelve months or a fine up to \$2,500, or both.

Playing these "Skill Games" could result in criminal charges of illegal gambling under Virginia Code §18.2-326.

- The punishment for violating this statute is a Class 3 misdemeanor, which may result in a fine up to \$500.