

# State of Louisiana

M. J. "MIKE" FOSTER, JR.  
GOVERNOR

Gaming Control Board

HILLARY J. CRAIN  
CHAIRMAN

## **RULING ON PETITION FOR DECLARATORY RULING OF LUCKY PEACOCK CASINO, LUCKY LONGHORN CASINO, NEVADA MAGIC CASINO, TEXAS PELICAN CASINO, BAYOU GOLD CASINO, STARKS SILVER DOLLAR CASINO**

Petitioners, Lucky Peacock Casino, Lucky Longhorn Casino, Nevada Magic Casino, Lucky Delta Casino, Texas Pelican Casino, Bayou Gold Casino, Starks Silver Dollar Casino, request a declaratory ruling on the application of La. R.S. 27:353(14) and La. R.S. 27:371(A). Petitioners request a finding by the Louisiana Gaming Control Board that the statutory provisions cited prohibit the operation of slot machines which offer video draw poker at a live racing facility licensed to operate slot machines.

Petitioners are licensed under the Video Draw Poker Devices Control Law, La. R.S. 27:301 et seq., to operate video draw poker gaming devices at their truck stops. Petitioners allege that they are in close proximity to Delta Downs Race Track and Casino, a live race track facility licensed under the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, La. R.S. 27:351 et seq., to operate slot machines at its facility. Delta Downs has slot machines which offer games of video draw poker.

The statutes cited by petitioners are found in the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act and are as follows:

Louisiana Revised Statute 27:353(14) provides:

When used in this Chapter, the following terms shall have these meanings:

...

"Slot machine" means any mechanical, electrical, or other device, contrivance, or machine which, upon insertion of a coin, token, or similar object therein or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, **whether by reason of the skill of the operator or application of the element of chance, or both**, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. (Emphasis added)

Louisiana Revised Statute 27:371(A) provides:

The operation of **video draw poker devices** shall be prohibited and may not be licensed to operate in any eligible facility in which slot machine gaming occurs. (Emphasis added.)

A video draw poker device is not defined in the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act but is defined in the Video Draw Poker Devices Control Law in La. R.S. 27:301(B)(15) as follows:

As used in this Chapter, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:

...

"Video draw poker device" means any unit, mechanism, or device authorized pursuant to the provisions of this Chapter, that, upon insertion of cash, is available to play or simulate the play of the game of draw poker or other card games approved by the division, utilizing a cathode ray tube or video display screen and microprocessors in which the player may win games or credits that can be redeemed for cash only. **The term does not include a device that directly dispenses coins, cash, tokens, or anything else of value, except the ticket voucher required in accordance with the provisions of this Chapter.** The term does not include any device authorized to be used in the conducting of charitable gaming. (Emphasis added.)

Petitioners argue that when the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act was first enacted in 1997 the definition of a slot machine did not include the element of skill only that of chance.<sup>1</sup> Video draw poker

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<sup>1</sup> La. R.S.27:353(11) defined slot machine. It was repealed and replaced by R.S. 27:353(14) by

gaming contemplates the element of skill thus the definition of a slot machine excluded the play of video draw poker. Petitioners point out that the slot machine definition was broadened in legislation enacted in 2001 adding the element of skill in its definition. Petitioners posit that the revision to the definition was only done for consistency among gaming statutes and there was no legislative intent to broaden the definition of slot machine to include the play of video draw poker.

Boyd Racing, L.L.C., joined by The Old Evangeline Downs, L.C., filed a memorandum in opposition to the petitioners' position. The Board requested and received a memorandum from the Louisiana State Police addressing the issue.

All parties agree that the current definition of a slot machine found in the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act encompasses a slot machine which offers video draw poker gaming. The dispute is whether the prohibition contained in La. R.S. 27:371 applies to "video draw poker devices" as defined in the Video Draw Poker Devices Control Law, or as petitioners suggest, "any mechanical or computerized gaming device simulating the game of video poker."

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Acts 2001, No. 1222 effective July 2, 2001.

La. R.S.27:353(11) provided as follows:

(11) "Slot Machine" means any mechanical or electronic machine, which, upon insertion of an item of currency, token, or similar object therein, is available to play or operate, and the play or operation of which, **solely by application of the element of chance**, may deliver or entitle the person or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. (Emphasis added)

When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature. La. Civ. Code art.9. Laws on the same subject matter must be interpreted in reference to each other. La. Civ. Code art. 13. Words and phrases shall be read with their context and shall be construed according to the common and approved usage of the language. Technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning. La. R.S. 1:3. Laws are presumed to be passed with deliberation and with full knowledge of all existing ones on the same subject. *Bunch v. Town of St. Francisville*, 446 So.2d 1357 (La.App.1Cir.1984).

The Louisiana Gaming Control Law, La. R.S. 27:1 et seq., contains the Video Draw Poker Devices Control Law and the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act. It is one body of law on the subject of gaming regulation. The Louisiana Gaming Control Law provides licensing to race track facilities under the Video Draw Poker Devices Control Law and under the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act. Devices are not licensed. Facilities or establishments are licensed.

A reasonable interpretation of the statutory prohibition in light of the Louisiana Gaming Control Law is that an eligible racing facility could only obtain one license, either to operate slot machines under the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act or to operate video draw poker devices under the Video Draw Poker Devices Control Law. In so choosing to obtain a license under the

Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, the eligible racing facility could not operate video draw poker devices as defined in the Video Draw Poker Devices Control Law.

Within the definition of "video draw poker device" is an exclusion. Excluded from the term is "a device that directly dispenses coins, cash, tokens, or anything else of value, except the ticket voucher required in accordance with the provisions of this Chapter." A slot machine dispenses coins and tokens. Thus, a slot machine cannot be said to be a video draw poker device as defined.

The definition of slot machine in the Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act encompasses the play of video draw poker on the machine. The prohibition found in La. R. S. 27:371 does not prohibit the operation of slot machines which offer video draw poker.

This matter was considered by the Louisiana Gaming Control Board in open meeting of July 16, 2002.

THUS DONE AND SIGNED on this the 16 day of July, 2002.

LOUISIANA GAMING CONTROL BOARD

BY:

  
HILLARY J. CRAIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD  
LOUISIANA GAMING CONTROL BOARD  
I HEREBY CERTIFY THAT A CERTIFIED  
COPY HAS BEEN MAILED OR SERVED ON  
ALL PARTIES THIS 17<sup>th</sup> DAY  
OF July 2002  
APPEAL DOCKET CLERK

