



COUNTY of GALVESTON  
Criminal District Attorney  
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First Assistant

**Johnny J. Freeze**  
Chief Investigator

**Zonia Wilturner-Smith**  
Chief Executive Officer

March 15, 2011

To the Citizens of Galveston County:

We regularly receive questions about the legality of game room operations within the County, specifically regarding eight-liners and other machines which may be used as gambling devices. This letter is to inform you generally of the law governing these gambling devices and the potential criminal and civil consequences for those who illegally operate these devices.

Operators of game rooms where gambling devices are played are subject to prosecution for (1) Gambling Promotion, (2) Keeping a Gambling Place, and (3) Possession of Gambling Device, Equipment, or Paraphernalia. These are all Class A misdemeanor offenses punishable by up to a year confinement in the county jail and a possible fine up to \$4,000. If three or more persons combine to carry on any of these offenses, they may be subject to a state jail felony conviction, punishable by up to two years confinement in a state jail and a possible fine up to \$10,000. Additionally, persons who receive illegal proceeds from game rooms or who supervise or facilitate transactions involving illegal gambling proceeds or participate in other ways may be prosecuted for money laundering. Depending on the amount of money involved, money laundering convictions carry a range of punishment from the state jail felony level up to a first degree felony. Chapters 34, 47 and 71 of the Texas Penal Code provide details about these criminal offenses.

Many believe that eight-liners and other similar machines can be legally operated under the "fuzzy animal" exception. The "fuzzy animal" exception – found in Texas Penal Code §47.01(4)(B) – applies only when a person plays for noncash merchandise prizes, toys, or novelties that have a wholesale value available from a single play of the game or device of not more than ten times the amount charged to play the game or device once or five dollars, whichever is less. Some game room operators attempt to circumvent this provision by various means of totaling the number of tickets, tokens, certificates, or whatever is awarded. However, the awarding of tickets or other items in exchange for a noncash merchandise prize is limited under the law since the wholesale value of the prize – not the tickets – must be no more than ten times the amount charged to play or five dollars, whichever is less.

Felony Section  
Off: 409-766-2355

Family Law Section  
409-766-2364

Grand Jury Section  
409-766-2379

Worthless Check Section  
409-766-2429

Felony Victim's Asst.  
409-770-5124

Houston Line  
281-316-8300

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Here are some specific practices that could result in criminal prosecution and forfeiture proceedings by this office:

1. An award of cash, gift certificates, or anything else which may be exchanged for cash or gift certificates, including certificates or tokens used for replay on a gambling device, regardless of value.
2. Any transfer of credits earned on one machine to another machine, or the replay of credits earned on one machine in that or any other machine at a later date.
3. Any award of noncash merchandise prizes, toys, or novelties that have a wholesale value available from a single play of the game or device of *more* than ten times the amount charged to play the game or device once or five dollars, whichever is less. The accumulation or stacking of credits/tickets toward the purchase of more valuable prizes will be considered to be a violation of the law if the accumulated credits exceed the maximum value for a prize which can be legally awarded from the machine as noted above. The wholesale value of the prize – not the ticket – available from a single play must be no more than ten times the amount charged to play once or five dollars, whichever is less.
4. Additionally, the practice of “match play” – where the owner or operator of a game or device “matches” the consideration paid by a player to play a game – may subject the owner or operator to criminal prosecution and forfeiture proceedings if (1) the owner or operator puts cash into the machine, thereby rewarding the player with cash for play on the machine (see number 1, above); or (2) the owner’s match has the effect of reducing the cost to play the game.
5. The use of “door prizes” to attract customers is presumed to be legal, provided the players are not given additional entries into the door prize drawing based on the number of credits they win on a game or device.

Furthermore, the gambling devices, any gambling proceeds, and contraband – including cash, personal property and real property – *are all subject to seizure and forfeiture* under Chapters 18 and 59 of the Texas Code of Criminal Procedure. Even real property is subject to seizure and forfeiture when the owner knows that certain criminal activity is occurring on the property or gives his effective consent to such activity.

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Local law enforcement agencies are primarily responsible for investigating possible violations of these laws. This office will continue to actively assist these agencies to investigate and prosecute any person or business operating a gambling device in violation of the law.

As Criminal District Attorney, I urge anyone involved in illegal gambling activity to voluntarily cease your operations immediately. If you are an owner or operator of a game room and you have further questions, you should contact an attorney to address your concerns.

Respectfully,

A handwritten signature in black ink, appearing to read "Jack Roady", with a long, sweeping flourish extending to the right.

Jack Roady  
Criminal District Attorney  
Galveston County, Texas