



May 14, 2021

To All Registered Skill Game Distributors / Operators in the Commonwealth
Sent Via Email Only

Dear All:

RE: Cessation of legal authority to operate skill games and transition of any necessary enforcement

As you should know, the lawful operation of skill games in the Commonwealth comes to a close on June 30, 2021. Beginning July 1, 2021 these games will be unlawful (see section 18.2-325 of the Code of Virginia). We are writing to you to respond to questions we have received and to delineate expectations for what should occur after that date.

Pursuant to Chapters 1217 and 1277 of the 2020 Acts of the General Assembly, Virginia ABC was tasked with developing and implementing a program for the regulation of skill games in the Commonwealth. That authority was further delineated in Executive Directive Eleven (2020) issued by the Governor on May 18, 2020. In response, Virginia ABC promulgated regulations, 3VAC5-80-10 to regulate skill games for the period of time during which the statutory law and the Governor's Executive Directive remained in effect. Those authorities expire on June 30, 2021 and Virginia ABC will no longer have any authority to regulate skill games. First and foremost, Virginia ABC wants to thank each of you for your cognizance of the law and your efforts to comply during the course of the past year. In response to the law and regulations, you have remitted \$88,286,000.00 to the Commonwealth, \$74,160,240.00 of which has been provided to the COVID-19 Relief Fund and \$10,594,320.00 has been provided to localities across the Commonwealth. In some instances, Virginia ABC has been forced to take enforcement actions for non-compliance and to collect past due taxes for the benefit of Virginians and the COVID-19 Relief Fund. We have done so in the spirit of the purpose of the law and to contribute to a better Commonwealth. Your participation in an earnest way to work with Virginia ABC and to achieve compliance with law is greatly appreciated.

SKILL GAMES UNLAWFUL BEGINNING JULY 1, 2021

Chapters 1217 and 1277 of the 2020 Acts of Assembly expire pursuant to their own terms on June 30, 2021 (see Enactment Clause 8). Further, Executive Directive Eleven (2020) similarly expires on June 30, 2021. ("This (skill games) authority granted to ABC by this Executive Directive shall be effective upon its signing and shall remain in full force and effect until 11:59 p.m. on June 30, 2021").



Virginia ABC provides the following guidance as to what you should expect and actions you should take to comply with the expiration of the legality of skill games in the Commonwealth. Beginning at 11:59 p.m. on June 30, 2021 all registered skill games should cease to operate. For machines remaining on the premises until they can be removed, Virginia ABC expectations are that the machines will be inoperable at that time. Physical relocation of the machines to jurisdictions that authorize these machines or to a warehouse location should take place without undue delay. You may choose to post notices on the machines that you have distributed or operate to notify your customers of the change in law. If, in the course of routine inspections of ABC licensed establishments by Virginia ABC agents, operational skill games are detected, Virginia ABC will engage with the appropriate authorities for further action.

Taxes due for the operation of skill games for the month of June 30, 2021 should be remitted in the normal course no later than July 23, 2021. Failure to remit taxes due will be enforced by the appropriate entities.

GOING FORWARD AND FUTURE INQUIRIES REGARDING SKILL GAMES

As of July 1, 2021 Virginia ABC will no longer be the appropriate entity to receive inquiries or advocacy with regard to the operation of skill games in Virginia.

During the course of the 2021 General Assembly, the legislature passed and the Governor signed House Bill 2168 and Senate Bill 1465. That legislation became Chapters 546 and 329 of the 2021 Acts of Assembly respectively. As amended, the Code has a new section 18.2-331.1 which vests authority in the Attorney General, an attorney for the Commonwealth or the attorney for any locality to bring an action in equity to enjoin the operation of a gambling device at an unregulated location and recover a civil penalty. The term “unregulated location” is defined to mean “ any location that is not regulated or operated by the Virginia Lottery or Virginia Lottery Board, the Department of Agriculture and Consumer Services, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.” Given the fact that there are likely more “unregulated locations” in the Commonwealth than regulated locations, Virginia ABC will work with the authorities identified in 18.2-331.1 to avoid conflicting interpretations as we continue to carry out our authority to prohibit gambling devices in ABC licensed establishments pursuant to 4.1-325. To that end, when Virginia ABC agents identify a gaming machine at an ABC licensed location, it will be our practice going forward to advise the Attorney General, a Commonwealth Attorney or local Attorney of such observance and seek a collaborative and appropriate response. Consequently, you are advised to seek redress or communication with those offices should you have questions on operations after June 30, 2021.

In the spirit of smooth transition for matters related to the operation of skill games, the remittance of taxes or failure to remit, or novel approaches to skill games going forward, Virginia



ABC will be communicating directly with the Office of the Attorney General, a representative of the Commonwealth Attorneys and a representative of the local Attorneys and also providing a comprehensive transition report to those offices as well.

Again, Virginia ABC expresses our appreciation for your cooperation during the course of the past year in assisting to make the lawful operation of skill games a successful program that made meaningful economic contributions to the Commonwealth to address the pandemic. It was a program established in short order with your contributions from inception to implementation. We know that transitioning from an enterprise that is currently lawful to one that becomes unlawful with the turning of the page on the calendar is not easy. We stand ready to respond to further questions between now and July 1, 2021 and wish you every success as you redeploy machines to other jurisdictions or ultimately warehouse machines currently located in regulated establishments.

With kindest regards,



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Chief Executive Officer

cc:

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