

MEMORANDUM

To: ABC and DCG Licensees
From: Jacob Walbourn, Deputy General Counsel, Public Protection Cabinet
Date: March 25, 2021
Re: "Skill Based" Games

It has recently come to the attention of the Public Protection Cabinet ("Cabinet") that distributors of "skill based" electronic games have been attempting to enter agreements with Department of Alcoholic Beverage Control ("ABC") and Department of Charitable Gaming ("DCG") licensees to place these games in licensed premises/charitable gaming facilities. This memorandum attempts to address several frequently asked questions regarding such games.

Are Skill Based Games Legal?

The Cabinet takes no position as to the legality of these games, as such a determination is not within the jurisdiction of the Cabinet. We make no warranty that these games comply with Kentucky law, and strongly encourage you to consult with private legal counsel to assess the potential benefits and risks of placing these machines in your premises/facility. Proceeding with installation of these games is at your own risk. Setting up, operating, or keeping a gambling game, device, or machine on an ABC-licensed premises is grounds for revocation of alcoholic beverage licenses. KRS 243.500(6).

Does ABC or DCG License These Games?

No. Neither ABC nor DCG has authority to license these games. Any indication that ABC or DCG have reviewed and/or approved these games is inaccurate.

Does ABC or DCG Receive a Portion of Tax Revenue Generated By Skill Based Games?

No. The Cabinet is aware that at least one distributor has indicated that not only has the Cabinet reviewed and approved these games, but that a portion of the revenue generated by these games is distributed to the Cabinet. This is inaccurate. Neither the Cabinet, ABC, nor DCG receive any monies from operation of these machines.

Are Skill Based Games a Form of Charitable Gaming?

No. This type of game is not within the types of charitable gaming permitted by Kentucky law and regulation. The only authorized forms of charitable gaming are bingo, charity game tickets, raffles, and charity fundraising events. See KRS 238.505(2).

Can ABC or DCG Grant Me Approval to Operate Skill Based Games?

No. As above, neither ABC nor DCG regulates, reviews, or approves these games. Accordingly, neither ABC nor DCG can grant approval to operate these games.

How Will the Cabinet Handle Complaints Regarding Skill Based Games?

Any complaints regarding the operation of these games will be referred to law enforcement.

Should I Allow Skill Based Games in My Business/Facility?

The Cabinet is unable to provide you with any legal advice regarding these games. We strongly encourage you to consult with private legal counsel with questions or concerns about these games.