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# Recent Developments: Chesapeake Amusements v. Riddle: A Dispensing Slot Machine with Player Enhancement Features That Signal When a Winning Ticket Is Being Dispensed Does Not Violate Maryland's Statutory Provision Prohibiting Illegal Slot Machines

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**Chesapeake Amusements v. Riddle:**

**A Dispensing Slot Machine with Player Enhancement Features that Signal When a Winning Ticket is Being Dispensed Does Not Violate Maryland's Statutory Provision Prohibiting Illegal Slot Machines**

**By Adam Kleinfeldt**

The Court of Appeals of Maryland held a dispensing slot machine with player enhancement features is not an illegal slot machine prohibited by Md. Code Ann. art. 27, § 264B(1957). *Chesapeake Amusement v. Riddle*, 363 Md. 16, 766 A.2d 1036 (2001). In so holding, the court interpreted section 264B to prohibit machines with player enhancement features that manipulate the element of chance rather than simply facilitating the playing of paper pull-tabs. *Id.* at 40-41, 766 A.2d at 1048.

The appellant, Chesapeake Amusements, Inc. ("Chesapeake") is a for-profit Maryland corporation that provides instant bingo machines to several Maryland locations. The State's Attorney for Calvert County ("County") and Chesapeake disagreed as to whether the Lucky Tabb II is an illegal slot machine.

The Lucky Tabb II, an instant bingo ticket dispenser with a video screen that displays the contents of the tickets, emits a musical tone ("player enhancement features") if the ticket is a winner. To receive an instant bingo ticket, a customer must insert money into the Lucky Tabb II and push a button located on the front of the machine. As the ticket is severed from a roll, a barcode reader in the machine reads the code on the back of the ticket. The information in the barcode is used to

create a video image of what is displayed on the ticket. The parties agreed that the video image was merely a reproduction of the inside of the ticket, and customers cannot use the indications on the video screen independently to determine whether they are entitled to a prize.

Chesapeake brought an action for declaratory judgment in the Circuit Court for Calvert County to determine if the Lucky Tabb II was an illegal slot machine under Md. Code Ann. art. 27, § 264B(1957). The circuit court held that the Lucky Tabb II violated the statute. The Court of Appeals of Maryland granted certiorari sua sponte to determine if the Lucky Tabb II was an illegal slot machine pursuant to section 264B.

The court of appeals analyzed whether section 264B permits a distinction to be drawn between pull-tab dispensing machines without player enhancement features and those with the features. *Id.* at 28, 766 A.2d 1042. The court further agreed that the answer to that question was in the interpretation of the "chance" element of the statute that reads:

For a machine ... to be a slot machine, which is prohibited by law, its operation must be characterized by an element of chance, as result of which the user of the

machine ... may receive or become entitled to a prize by reason of the unpredictable operation of the machine.

Md. Code Ann. art. 27, § 264B(1957). *Id.* at 27, 766 A.2d at 1041.

While the court may have agreed with the county concerning the central question in the case, the court disagreed with the county's interpretation of the above statute. The county argued that statutes involving gaming laws should be liberally construed "so as to prevent the mischiefs intended to be provided against." *Id.* at 31, 766 A.2d 1044 (citing Md. Code Ann. art. 27, § 246 (1957)). The county also argued that the chance element of the statute was satisfied because it was "unpredictable" to the player as to whether the machine would dispense a winning ticket. *Id.* at 31, 766 A.2d 1044

The court of appeals rejected the county's arguments because it failed to squarely examine the relationship between the player and the operation of the machine pursuant to the chance element of section 264B. *Id.* at 33, 766 A.2d at 1044-45. Instead, the court found that the plain language of the statute,

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mainly the chance element of section 264B, is paramount and that the legislative history should not be consulted when the meaning of the statute is clear and unambiguous. *Id.*

The court stated that the language of section 264B was clear and unambiguous and that the Lucky Tab II was not an illegal slot machine within the meaning of section 264B. The court relied on *Cabazon Band of Mission Indians v. Nat'l Indian Gaming Comm'n*, 14 F.3d 633 (D.C. Cir. 1994), in making its determination. *Id.* at 39, 766 A.2d 1048. In *Cabazon*, the court held that the machine in question was "quite" different from the Lucky Tab II because that machine randomly selected pull-tabs and displayed them for the gambler. *Id.* In contrast, "instead of using a computer to select patterns, the Lucky Tab II actually cuts tabs from a paper roll and dispenses them to the players ... [and] without the paper rolls, the machine has no gaming function at all." *Id.* at 40, 766 A.2d 1048 (*quoting Cabazon*, 14 F.3d 633 (D.C. Cir. 1994)).

In applying the same reasoning, the court found that the "element of chance is in the [roll of] pull-tabs themselves, and not in the operation of the machine." *Id.* at 41, 766 A.2d at 1049. The Lucky Tab II, like other gaming machines with similar player enhancement features, simply displays the contents of the ticket on the screen and does not change the outcome of the games. *Id.* at 40, 766 A.2d at 1049. The chance requirement of the statute is not based on the player's perception, and the legislative history of section 264B

cannot aid in the determination of the chance requirement when the language of the statute is clear and unambiguous. *Id.* at 41, 766 A.2d at 1049.

The Court of Appeals of Maryland's decision in this case is important to Maryland law because the decision, unlike those cited by the county, resolves any ambiguity surrounding the interpretation of the chance element of section 264B and the relationship between the player and operation of an instant bingo machine. According to the decision in this case, as long as the machines with player enhancement features simply parrot what is on the ticket and do not affect the nature and chance of the game the machines are not illegal under section 264B. *Id.*

This case is a victory for companies like Chesapeake Amusements. Armed with this interpretation of section 264B, these companies can continue to design and operate machines with elaborate player enhancement features as long as the chance element involved is confined solely to the pull-tabs. Likewise, gamblers who frequent the machines because of these added features may continue to do so. As long as these companies stay within the guidelines of the instant decision, the chance element of section 264B will fail as a weapon against instant bingo machines with player enhancement features.

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