

FINAL WORD BY A. BARTON HINKLE

Rent-Seeking Games

The world is full of strange contests: cockroach racing, toe wrestling, cow-chip tossing. To date, no contest has been held for Best Example of Public Choice Theory. But if one ever does take place, the dispute over “skill games” will be a championship contender.

Skill games resemble slots, but include just enough non-random elements to avoid being labeled outright gambling and thus fall under state gambling regulations (and prohibitions). States don’t like them.

This past summer, for example, the Virginia Lottery sent a financial report to the governor warning darkly of a revenue threat on the horizon—namely, “an aggressive expansion” of “untaxed, unlicensed, and unregulated machines” allowing users to wager money. “By our unofficial count,” the report said, “nearly 4,300 of these unregulated games-of-skill machines now operate in”—here comes the pinch point—“1,350 Lottery licensed retailers,” or “one-quarter of our retail locations.”

You can see the problem right away. For much of their existence, state lotteries have enjoyed something close to a monopoly on licit gambling. Some states have allowed horse racing and expanded into pari-mutuel wagering, and some have gone full-bore into casino gambling, and the internet offers another outlet for those who want to wager. But outside of the occasional office betting pool or basement poker game, anybody who wants to take a socially acceptable risk with a few dollars is pretty much stuck with some sort of state-controlled racket.

The result of this market dominance has been a fire hydrant of cash. In Virginia, the Lottery had \$2.29 billion in ticket sales—and \$650 million in profits—in just the last fiscal year. That’s a profit margin of 28%,

by the way, which is well above the average profit margin for the ostensibly rapacious pharmaceutical industry.

But if “untaxed, unlicensed, and unregulated machines” begin to horn in on the state’s gambling business, the result could be—gulp!—a loss of revenue. Indeed, the *Richmond Times-Dispatch* reported that Virginia’s secretary of finance, Aubrey Layne, had heard that some businesses had replaced their Lottery machines with skill games. “We’re going to have to come to grips with this,” Layne said.

He’s not alone in this worry. In Pennsylvania, state lawmaker Tommy Tomlinson has introduced legislation targeting skill-game machines. According to news accounts, “There are 5,050 machines being used at convenience and liquor stores, gas stations, thrift shops, and shopping malls throughout the state, each diverting \$2,284 from the lottery each month.” The horror.

Pennsylvania devotes its Lottery proceeds to medical benefits for seniors ineligible for Medicaid. “These machines are picking the pockets of Pennsylvania senior citizens,” Tomlinson insists. He notes that the gaming devices are often “placed next to a lottery machine to mislead the public into thinking these machines are actually Lottery machines.” To the contrary, he says, “they are illegal gambling devices.”

That might seem like splitting a very fine hair, but lotteries bill themselves as good, clean fun that serves a worthy

cause. Virginia’s proceeds, for instance, go to public schools. Or at least they do in theory. In practice, the money frees up funds that legislators otherwise would spend on K-12 education.

Governmental alarm over the prospect of gambling competition surely contains a degree of institutional self-dealing, and that is where the public-choice angle comes in. Public choice theory holds that government agents are not purely disinterested actors pursuing the general welfare at all times; like everyone else, they are motivated at least in part by self-interest.

And indeed, from a completely disinterested perspective, the optimal gambling regime would be one that allows the greatest number of people to pursue their own best interests as they define them. If people would rather play games of skill than games of chance, then the state should not stand in their way. States, however, are not likely to take this view. And with so much money on the line, why would they?

To be fair, states have no monopoly on self-seeking in this realm (or any other). Game machine provider Queen of Virginia Skill & Entertainment is certainly not making any kind of case for laissez-faire. “We

agree that there are many gambling machines masquerading as skill devices across the Commonwealth and those illegal machines must be cleaned up,” a company spokesman told the *Times-Dispatch*. Tom Lisk, a lobbyist for the company, notes that “it would benefit us to have some sort of regulatory structure.” Michael Barley, spokesman for Queen of Virginia’s parent company, Pace-O-Magic, is even more direct: “Our goal in every market we’re in is to get more of a regulated system,” he says.

Naturally. If you can’t beat ‘em in the game of rent-seeking, the best strategy is to join ‘em. R

