

**Attached is  
Additional Information  
for Agenda Item # 18**

**Board of County Commissioners'  
Meeting of April 26, 2011**

**Consideration of a Proposed Ordinance Regulating Internet Cafes**

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## The Casino Next Door

How slot machines snuck into the mall, along with money laundering, bribery, shootouts, and billions in profits

By Felix Gillette

Inside a one-story building on the edge of a strip mall in Central Florida, Joy Baker calculates the sum total of her morning bets. It's almost noon, and she's down \$5. Not bad. Her husband, Tony, sits a few feet away. "This is the most fun we've had in 20 years," says Joy, who is 78 and retired. "At our age, we can't hike. You can't pay him to go to the movies. This gives us a reason to get up in the morning."

Tony concurs. "We enjoy this," he says. "We will be very bitter if the politicians take this away from us. I will take it personally."

It's a Wednesday morning in mid-March, and the Bakers are sitting inside Jacks, a new type of neighborhood business that is flourishing in shopping malls throughout Florida—and across America. Jacks bills itself as a "Business Center and Internet Cafe," but it looks more like a pop-up casino.

Jacks is about the size of a neighborhood deli. There is a bar next door and a convenience store around the corner. Inside, jumbo playing cards decorate the walls. The room is filled with about 30 desktop computers. Here and there, men and women sit in office chairs and tap at the computers. They are playing "sweepstakes" games that mimic the look and feel of traditional slot machines. Rows of symbols—cherries, lucky sevens, four-leaf clovers—tumble with every click of the mouse.

John Pate, a 50-year-old wearing a Harley-Davidson T-shirt, says he is wagering the equivalent of 60 cents a spin. "This place is pretty laid-back," says Pate. "You can come here and get your mind off everything. You're not going to win the mortgage. You're not going to lose the mortgage. It's pretty harmless."

Local law enforcement disagrees. Jacks is located in the town of Casselberry, in the heart of Seminole County, a former celery-growing region that is now a suburb of nearby Orlando. For the past couple of years, the vice squad of the local sheriff's department has been investigating Jacks and seven other similar businesses around the county for potentially violating state prohibitions on gambling. The cafe owners contend that what they are offering is not technically gambling but rather a form of "sweepstakes" promotions, which are currently legal under Florida state law. In January, after consulting with the sheriff's department, the five members of the local Board of County Commissioners passed an ordinance designed to shut down the mini-casinos.

The legal fight did not end there. As the commissioners soon learned, along with local officials throughout the U.S., getting rid of Internet sweepstakes cafes is not easy. Shortly after passing the ordinance, the commissioners were hit with multiple civil lawsuits filed in federal court. An attorney representing a chain of sweepstakes cafes headquartered in St. Augustine filed a 49-page complaint alleging, among other things, that the ordinance unfairly restricted the cafes' First Amendment rights to free speech. A lawyer working for a

sweepstakes software company in New Jersey filed a 20-page complaint alleging that the commissioners had violated the commerce clause of the U.S. Constitution.

More than two months later, Seminole County awaits a court ruling. In the meantime, the sweepstakes cafes remain open.

The fight over the legality of the pop-up casinos in Seminole County is part of a broader battle that has been fought for six years in counties across the nation from North Carolina to Texas to Massachusetts. Along the way, cops have raided numerous sweepstakes cafes, confiscated computers, and seized safes full of cash. In September, cops in Virginia Beach, Va., raided a dozen game rooms and confiscated more than 400 computers. In March, police in West Valley City, Utah, shut down two sweepstakes cafes, detained 67 people, and seized 80 computers. Lawmakers in North Carolina passed legislation last year outlawing the business model. In February, Virginia did the same. In April, the Massachusetts Attorney General submitted emergency regulations to shut down the businesses.

And yet the sweepstakes cafes keep spreading.

James Mecham, the managing director of SweepsCoach, a Sacramento-based company that provides startup services to new sweepstakes cafes, says he has helped open some 200 around the country in recent years. Mecham says the number continues to grow and estimates that there are now somewhere between 3,000 and 5,000 operating in the U.S. On Google ([GOOG](#)) Maps, a search for "sweepstakes cafe" turns up 2,823 results in North America. Those are just the ones listing their services.

"Phones are ringing off the hook," says Mecham. "Everybody wants to open one."

It's a high-margin, cash-rich business. According to Mecham, each terminal at a thriving cafe typically grosses \$1,000 to \$5,000 per month. A medium-size business with, say, 100 machines would therefore gross around \$250,000 a month, or in the ballpark of \$3 million a year. All of which would suggest that in less than a decade, Internet sweepstakes cafes in the U.S. have grown into a collective \$10 billion to \$15 billion industry.

Once populated by shadowy figures operating at the margins of society, the industry now attracts entrepreneurs operating openly. The co-owner of Jacks is a friendly fellow named Darryl Agostino who formerly owned a construction business. Like many of his peers, he advocates for regulation rather than prohibition. "If they regulate it and there's money to be made from this for the government, I'm fine with that," he says. Regulating the businesses, however, would also mean further legitimizing them—not to mention possibly expanding legalized gambling's reach into every shopping mall, every neighborhood, every county in the state, and perhaps the entire country.

Scott Plakon, a member of the Florida House of Representatives, thinks that's a bad idea. He believes the sweepstakes cafes are a predatory form of "convenience gambling" that hurt those who can often least afford it: the poor and the elderly.

In March, Plakon introduced a bill aiming to clarify state law in order to shut down sweepstakes cafes throughout Florida. He knows chasing the industry out of the Sunshine State won't be easy. "They're hiring regulators, they're hiring lobbyists, they're hiring lawyers," says Plakon. "In the meantime, our communities are paying the price for this."

**The first Internet sweepstakes cafes started popping up in small towns throughout the American South**

sometime around 2005. At the time, James Mecham and his partners were running a business out of Sacramento that designed and operated traditional Internet cafes. The small retail stores, born in the wake of the first Internet boom of the late 90s, catered to adults wanting to check their e-mail over coffee and teenagers wanting to play video games. There were no games mimicking slot machines. There was no betting.

About five years ago, according to Mecham, he started getting phone calls from people around the country interested in opening Internet sweepstakes cafes. At first, he and his partners were baffled. The calls kept coming. "The frequency increased to the point where we thought, 'O.K., maybe we're missing the boat here,'" says Mecham.

They did some research and found that a handful of software companies based in states such as Texas and Oklahoma were making "sweepstakes" games that looked and felt like digital slot machines and were designed to take advantage of state laws that prohibited slot machines but allowed sweepstakes promotions. Demand for the games was spiking.

The software companies, according to Mecham, weren't thrilled about the logistical headaches of helping clients set up new mini-casinos in states where politicians, cops, and lawmakers didn't want them. Mecham and his partners saw a potential niche: They would market, sell, and install sweepstakes terminals for new cafes in exchange for payments from the software companies.

"When we first got into the sweepstakes, for the first six months we were taking a hide-in-the-bushes strategy," says Mecham. "We didn't want to go to jail. I have a mortgage and a wife and five kids. I'm not going to jail over this. Now that I've been in it long enough, I realize it's pretty darn safe."

SweepsCoach has since set up numerous businesses in states around the country. Right now, says Mecham, Ohio is particularly hot. As part of the installation process, SweepsCoach provides new cafes with "compliance training" for its employees, which is geared toward keeping them out of jail.

Wherever Mecham sets up sweepstakes businesses, he says, somebody soon tries to shut them down. "I tell people, 'If you're looking for a reason not to do this, read the news,'" says Mecham. "But if you're looking for a reason to do it, look at someone's bank account who is in it. These guys make tons of money."

Mecham says SweepsCoach recently set up a top-of-the-line cafe with 50 computers that made \$20,000 profit in its first weekend. Once a cafe is set up, operational costs (rent, potato chips, soda) are minimal. Staffing is cheap. Cafe employees typically work for around \$10 an hour. The major cost is the software.

According to Mecham, sweepstakes cafes typically pay around 25 percent to 35 percent of their net take back to the software companies as part of long-term revenue-sharing agreements, with some of that money going back to installers like Mecham. He says that when they started in the business, there were only three companies making sweepstakes software. Now there are roughly 50. "There are at least 40 that are just two guys in their garage," says Mecham.

Some of the new companies, according to Mecham, are peddling lousy products. One of the key challenges for Internet sweepstakes cafe designers is to calibrate the prize percentage just right. Software that pays out too much can drag down a cafe's profits. Software that pays out too little will drive customers elsewhere. As with traditional slot machines, the "return to player" varies from company to company. But successful sweepstakes companies, says Mecham, typically pay out in the low 90 percent range, i.e., for every \$1 million patrons collectively wager, roughly \$900,000 is returned in prizes. A customer's chance of winning at a reputable sweepstakes cafe should be more or less on par with his chance of winning at a slot machine in Vegas.

Customers are easy to find. Mecham says sweepstakes cafes cater primarily to two demographics: the old and the poor. "Lower-income customers are coming in because they're bad at math," he says. "It's like the lottery. The lottery is a tax on people who are bad at math. They're coming in to try and catch a big break."

Every so often, one state or another tries to ban the businesses, but even if a state assembly cracks down, says Mecham, it's possible to keep the cash flowing. This past July, after various legal skirmishes, the North Carolina assembly passed legislation aiming to get rid of the Internet sweepstakes cafes once and for all. The ban went into effect in December. "Everybody was very sad in the industry," says Mecham. "Our very conservative attorney told us to get out of the state. We promptly did."

A couple of months passed, says Mecham, and Sweeps-Coach noticed that none of its competitors had left North Carolina. Mecham met with his lawyer again and told him they wanted to go back in. The lawyer said it was dangerous. "Well, define dangerous," says Mecham. "Nobody is getting in trouble. So we're going back into North Carolina and starting to open them up again."

"It's very, very rare that you hear of any serious criminal issues or major fines," says Mecham. "It's very difficult to pin this down, since it's a technology-based thing. There's going to be nine ways around whatever they come up with usually."

Occasionally, convictions do happen. In July 2010, federal attorneys successfully prosecuted three men who had been operating a ring of Internet sweepstakes cafes throughout East Texas. The trial came on the heels of a joint investigation into the cafes conducted by local officials and the FBI. After the 10-day trial, a jury found the defendants guilty of conspiracy to operate an illegal gambling enterprise and money laundering. In March, one of the men, Daniel Patrick Davis, was sentenced to 12 months and one day in federal prison. He is appealing the verdict. According to a public information officer with the U.S. Justice Dept., the other two defendants were sentenced to multiple years of probation.

In Central Florida, cafes started popping up sometime around 2007. Shortly thereafter, according to April Kirsheman, the general counsel for the Seminole County Sheriff's Office, complaints started rolling in. "Citizens were calling and saying, 'I don't understand. There's a gambling house next to the dry cleaners. Why is it there?'" says Kirsheman. The sheriff's vice squad launched an investigation.

**On a Tuesday night in March, the Allied Veterans #67** in Apopka, Fla., is hopping. About 150 desktop computers encased in dark consoles line the room. Roughly half are occupied. The majority of the players are middle-aged black men and women, munching on complimentary bags of Cheetos and sipping on free cans of Dr Pepper. At every sweepstakes terminal, a laminated notice warns visitors that the chairs have a weight limit. Anyone weighing more than 225 pounds is encouraged to see the manager.

Allied Veterans #67 is one of the largest Internet sweepstakes cafes in Seminole County. It is owned by Allied Veterans of the World Inc. & Affiliates, a nonprofit that currently operates 36 sweepstakes cafes around the state, according to its website. Back in January, at a county hearing on the future of the cafes, Lee Black, the manager of Allied Veterans #67, told the county commissioners that the cafe typically grosses \$100,000 a week.

The sweepstakes parlor sits in the middle of the Bear Lake Village Shopping Center alongside such businesses as a Burger King, a pharmacy, and a bank specializing in payday loans. Next door is a large gym. Last year the owners of the gym sued the owners of the shopping mall, alleging that the "unsavory clientele" at Allied Veterans' "thinly veiled gambling operations" was scaring away the gym's customers. The suit is ongoing.

Inside the game room, bright lights illuminate fields of industrial carpet. A beefy security guard sits by the front door. At the back of the cavernous room, a handful of customers stand in line to buy more "Internet time." There a young man in a red polo shirt takes their cash and hands out the complimentary snacks. For \$20, customers can get 100 minutes of Internet time and 2,000 sweepstakes entries. In a nod to a "no-purchase necessary" rule in state sweepstakes promotions, first-time patrons are given an extra 100 free sweepstakes entries.

Customers come and go. Some arrive in groups. Most play alone. A hush hangs over the room. Those who chat do so in a low murmur.

Each computer is loaded up with roughly 30 games. Some, such as Vegas Aces and The Money Bunny, mimic slot machines. Others, like Royal Poker, simulate card games. Each game allows customers to wager sweepstakes entries, ranging from a minimum of 25 to a maximum of 650 (the equivalent of \$6.50). The more you wager, the more you can win. At 25 entries, the "Big Win" is \$500. At 650, the top prize is \$13,000.

First-time customers must sign a "sweepstakes entry" form, which includes a clause stating: "I am not gambling."

Every terminal also offers Internet access—a feature that serves a crucial legal purpose in theory, but that in practice is mostly ignored. In the five hours I spend playing games inside the Allied Veterans #67, I see only one customer surfing the Web. Everybody else seemingly ignores the Internet in favor of dancing leprechauns, spurting oil wells, and spinning cherries.

By 11 p.m. on Tuesday night, I'm ready to quit. I wander back to the register to cash out. The cashier hands me \$23. All told, I've lost \$37.

It's not entirely clear where the money goes. Allied Veterans is legally registered as a 501(c)(3), a nonprofit organization dedicated to raising and donating money to veterans and first-responder groups around the country. According to its website, the group has given away more than \$2.5 million over the past year.

Recently the group's finances caught the attention of Joe Crankshaw, a reporter for TCPalm, an online newspaper. Crankshaw had been looking into the fundraising of organizations in Florida that raise money on behalf of U.S. veterans. On Mar. 18, Crankshaw filed a story for TCPalm noting that, among other oddities, Allied Veterans reported only \$596,696 of annual revenue to the IRS in 2009. That seemed low. According to what manager Lee Black said at the Jan. 11 public hearing, the Allied Veterans outlet in Apopka takes in \$100,000 a week, and the organization has been operating dozens of such cafes around the state for years. A conservative calculation suggests that Allied Veterans should be taking in something more like \$100 million annually.

Jerry Bass, the national commander of Allied Veterans, told TCPalm that there were other 990 IRS income statements "that had not been reviewed." But a state employee told Crankshaw—and later confirmed with *Bloomberg Businessweek*—that Allied Veterans had filed just one 990 form with the state for 2009.

"It raises questions about their finances," says state rep Plakon. "I hope that the Attorney General's office and law enforcement around the state continue to look at them." Jerry Bass did not respond to several requests for interviews made via a public-relations officer.

In January, Bass and the group's lead attorney, Kelly Mathis, appeared at that public hearing about the future of the sweepstakes parlors in Seminole County. In front of a crowded auditorium, packed with vocal supporters, Mathis and Bass explained to the commissioners why they believe Internet sweepstakes cafes are legal. Along the way, they laid out what has become the industry's standard self-defense.

The argument goes like this: The games played in the cafes may look like gambling, and the customers may think they are gambling, but technically there's no gambling involved. Despite appearances, what actually transpires is a sweepstakes. Gambling is illegal in Florida. Sweepstakes are not.

The classic example of a legal sweepstakes—which cafe owners routinely invoke to defend the legality of their business model—is long-running Monopoly promotion at McDonald's (MCD), based on the Hasbro (HAS) board game. During the popular giveaway, every time a McDonald's customer buys an item, he receives a free entry in the sweepstakes and the possibility of winning a prize, ranging from a free soda to millions of dollars. Unlike gambling, the pool of prizes is finite and predetermined from the outset.

Likewise, visitors to Allied Veterans aren't buying a game of chance, Mathis and Bass explained at the hearing. They are buying Internet time. As at McDonald's, the sweepstakes entries are chipped in for free.

The value of those entries, Mathis and Bass argued, is determined at the point of purchase. If an Allied Veteran customer wants to, he can sit down at a computer, click one button, and have the outcome of his sweepstakes entries revealed all at once. Instead, most customers choose to play the slot machine-mimicking games that reveal the entries piecemeal because they find it more entertaining. What transpires is the illusion of gambling, not the real thing. And like the Monopoly promotion at McDonald's, the pool of prizes is finite and predetermined. Thus it is a sweepstakes. Thus it is legal.

"You can't change the outcome," says Deborah Smith, the manager of the nearby Cyber City Internet sweepstakes cafe. "There's no skill involved."

Bass told commissioners that before Allied Veterans got in the business he sat down with legislators at the Florida Agriculture and Consumer Services Dept., which oversees sweepstakes regulation, to make sure everything was kosher. "It was laid out for us—if you do it like this, this, and this, you're all right," said Bass. "If you vary from that in any way, you could be in trouble."

A few minutes later, Miriam Wilkinson, a former attorney with the Florida Agriculture and Consumer Services Dept., echoed Bass's argument. This was a legal sweepstakes, she explained. It was also true, she told the commission, that she had recently left her job as a state regulator and was now on salary at Mathis's law firm, representing Allied Veterans.

Over the past six years, the debate over the legality of Internet Sweepstakes cafes has occasionally made its way into courtrooms, revealing the inevitable marriages of money and politics that were also on display in the wake of the FBI's recent crackdown on three major online poker sites. In one of the early legal challenges to the cafes, in 2006, a trial judge in Alabama ruled in favor of a sweepstakes business, called MegaSweeps, which had been shut down by a local sheriff. It was run by a racetrack owner named Milton McGregor.

Shortly thereafter, however, the Alabama Supreme Court reversed the decision. The state's high court found that the sweepstakes cafe business model was a roundabout way of trying to take what was in essence a slot machine operation and reconfigure it to take advantage of weaknesses in the law. "It is axiomatic that one may not lawfully do indirectly what is unlawful to be done directly," read the court's unanimous decision. The ruling provided a blueprint for sweepstakes cafe opponents looking for a solid legal argument to counter the industry's standard defense. Opponents of the game rooms also correctly predicted that the blow to the industry in Alabama would be only temporary. The legal justification would mutate.

Sure enough, it did. Before long, Milton McGregor, the former owner of MegaSweeps, opened a parlor—once again filled with games that mimicked the look and feel of traditional slot machines—at his greyhound racetrack

outside Montgomery. McGregor no longer billed the video slot machines as legal sweepstakes. Now he insisted they were "electronic bingo" machines, and legal.

In the months to come, while the money poured in (the racetrack operated more than 6,000 terminals), McGregor escalated the push toward legality, forming with industry colleagues an advocacy group, the Sweet Home Alabama Coalition, which lobbied state lawmakers on behalf of electronic bingo business interests. In January 2010, members of the Alabama state legislature introduced a bill aiming to amend the constitution of Alabama to recognize the legality of electronic bingo.

The push to amend the constitution, according to the Associated Press, passed in the Senate but eventually floundered in the House after news leaked out that the FBI was investigating. In October 2010, federal authorities arrested McGregor and 10 other people, including four current and former state legislators and a handful of lobbyists. They were charged with buying and selling votes related to pro-gambling legislation. The indictment, based in part on covert wiretaps, detailed an extensive conspiracy to try and legalize video slot machine-like games in Alabama.

Among other charges, prosecutors allege that the defendants would "provide campaign contributions, campaign appearances by country music celebrities, political polls, media buys, fundraising assistance ... and other things of value" to state lawmakers in return for their votes on specific bills. Prosecutors allege that in February 2010 one of the lobbyists charged in the conspiracy told a state legislator that if he voted for a pro-gambling bill, they would provide him with side work at a public-relations firm that would pay him \$1 million a year. McGregor has pled not guilty and is awaiting trial.

Elsewhere around the country, law enforcement officers are still struggling to pin down the Internet sweepstakes cafe business model long enough to ban it. After listening to Bass and Mathis in January, the Seminole County commissioners passed an ordinance banning the use of what the county dubbed "simulated gambling devices."

"Based on what we saw and what we were learning from the experts, the problem is the highly addictive method of these video displays that are gambling or simulated gambling," says Kirsheman, the general counsel for the sheriff's department in Seminole County, who helped draft the ordinance. "We took the approach that whatever it is—whether it's going to be declared gambling by some court or not—we don't want these in Seminole County because of the quality of life issues that they're presenting."

Kirsheman points out that whatever you think of the cafes, gambling remains illegal in the state. Narrowly defined exceptions have been made, she says, in cases where the benefit was thought to outweigh the costs. "What the industry has done is take certain parts of those statutes and just mixed them up by taking a safe harbor from one statute and sort of applying it to the law in the other," she says. "There is no court that has found that this is lawful."

On Feb. 1, a U.S. District Court in Florida granted a temporary restraining order and preliminary injunction allowing Allied Veterans and the other sweepstakes game rooms to remain open until a judge could rule on the legality of the county ordinance.

Back in Apopka, a copy of the court injunction hangs on the front door of the Allied Veterans #67. At the front desk there is a stack of business cards, decorated with a palm tree and the words "Save Our Internet Cafes" and directing patrons to an online petition. Two of the room's computers have been set aside specifically for petition signers. As I leave the business on Tuesday night, I ask the security guard by the door about the cafe's hours. "We never close," he says.

**About two years ago, Scott Plakon, a father of six and** Republican member of the Florida House of Representatives, was getting his hair cut at a shopping center in Deltona, Fla. He noticed that something called an Internet sweepstakes cafe was about to open in the mall. He'd never heard of such a thing. His hair cutter told him she sometimes frequented the Allied Veterans cafe in the neighboring county. She gave him the lowdown.

Shortly thereafter, Plakon heard about sweepstakes cafes from another source: his local sheriff. The more Plakon learned, the more he became convinced the pop-up casinos were a bad idea. The cafes often catered to low-income residents. Plakon says he was disturbed to learn that the ATMs in some of the game rooms accepted Quest cards—the debit cards with which the state of Florida distributes public assistance. Plakon kept talking about it to his hair cutter. "She asked me to shut these down because some of her friends were starting to have gambling issues," says Plakon.

In March, after months of consulting with sheriffs, district attorneys, and the state's Attorney General's office, Plakon introduced a bill into the Florida House of Representatives designed to shut down the sweepstakes cafes. After an initial hearing, the business and consumer affairs subcommittee voted 10-5 in favor of the bill, which must now pass through several more committees before it can reach a chamber-wide vote. For the ban to become law, a sister bill must also pass in the Florida Senate. Plakon expects the counter-lobbying to be fierce.

Industry money is already pouring into the state capital. The disclosure forms for state lobbyists brim with substantial donations from Internet sweepstakes cafes. According to state records, since January 2009, Allied Veterans alone has given somewhere between \$120,000 and \$280,000 to the Tallahassee lobbying firm Capital City Consulting, and \$230,000 to \$290,000 over the same period to a lobbying firm called Cruz & Co. In February, two new political fundraising groups popped up in Tallahassee, raising money from sweepstakes cafes and then redirecting the donations to state politicians. Since Feb. 10, a group called Save Our Internet Access has raised \$70,000, while Floridians for Internet Access has raised \$17,700.

A month after Plakon introduced his bill into the statehouse, the legislation has already gotten bogged down in the state Senate. There the bill was assigned to the Committee on Commerce and Tourism. Republican Senator Nancy Detert, chair of the committee, has not yet introduced the bill into committee—essentially putting the whole legislative effort on ice.

State records show that in January, Detert formed a new fundraising group. So far it has received three contributions worth \$15,000 total. Two of the three donations appear to have come directly from the Internet sweepstakes industry. Most recently, on Mar. 2, Save Our Internet Access gave Detert's group \$5,000. Detert did not respond to several requests for an interview.

Pat Fowler, the head of the Florida Council on Compulsive Gambling, a nonprofit organization that operates a 24-hour help line providing support for problem gamblers, says the calls involving the pop-up casinos began coming in about two years ago. Unlike resort casinos, says Fowler, the cafes can be hard for compulsive gamblers to avoid in everyday life. She cites a 1999 report commissioned by the U.S. Congress in which The National Gambling Impact Study Commission found that "the presence of a gambling facility within 50 miles roughly doubles the prevalence of problem and pathological gamblers."

"This is positioned within the community," says Fowler. "They are in the neighborhoods, by the laundromat, next door to the hair salon where people go to conduct their day-to-day lives. For those who develop problems, it's impossible for them to avoid."

The council recently published the results of a survey based on more than 60 individuals who had called the help line experiencing problems due to the sweepstakes cafes. The survey found that 89 percent of the callers were suffering from depression, 24 percent were either unemployed or disabled, and 37 percent said they had committed illegal acts to finance their sweepstakes fix. The average household income was \$26,000. The average amount they reported losing on gambling was just over \$34,000.

Sweepstakes cafe proponents criticize the survey's small sample size and say that those who develop a problem are a minority of the customers. Supporters also accuse opponents in the legislature of hypocrisy. After all, while gambling per se remains illegal in Florida, the state has made various exceptions. Betting is allowed at more than 30 establishments across the state, including at horse and dog racing tracks, jai alai arenas, and casinos run by the Seminole Indians. "It's ridiculous," says Seminole County resident Gwenn Flannery. "The state just wants to get a cut from this. Pretty soon they'll be taxing the air."

Like many of the regulars in Seminole County, Flannery also takes the bus two or three times a year to the Seminole Hard Rock casino in Tampa, but she enjoys the ease and convenience of the Empire Internet Café. To her, it's the same thing, only closer. "It's gambling," she says. "I don't care what they call it."

Larry Godden, a 67-year-old retired resident from Nebraska, agrees that the Internet sweepstakes cafe nomenclature is absurd. "That's a joke," says Godden. "It's gambling."

Godden says he doesn't see anyone losing serious money at the cafes. Once a week, he and his wife head over to the Cyber City Café in Winter Park and spend a couple of hours playing games like Wheel O' Treasure, Prize Is Right, and Cobra Cash. On an average night, says Godden, they may lose between \$40 and \$60. Along the way he has become friends with some of the managers and customers. "It's a family place," says Godden. "There's no vulgarity. I go in planning to lose, and I'm never disappointed."

Cyber City Café, which opened in 2009, is tucked into a sedate shopping mall in an upscale neighborhood. Its tinted outer windows advertise copy and fax services, as though the business on the other side of the glass were nothing more than a mom-and-pop copy shop. Inside, the room has upwards of 100 sweepstakes terminals. There is a lounge in the back with leather couches, free coffee, and a flat-screen TV. At the cash machine, a sign informs customers that they can get rewards for new referrals.

Deborah Smith, who manages the cafe, says she used to manage a restaurant in Ohio and moved to Florida to be closer to family. Inside the sweepstakes parlor, Smith is like a convivial maitre d' at a neighborhood watering hole. She knows the regulars by name, their preferences, where they like to sit. Everyone is greeted with a smile.

"We've got a lot of senior citizens, and a lot of the wives don't drive," says Smith. "The husbands will drive them and then they come back here and watch TV and have some snacks. We've got a cancer patient that did nothing except sit on the front porch or sit on the couch all day until he found this. A friend found this, a neighbor, and brings him here. This is the only quality of life he has."

If the ordinance passes muster in court, she says, it will likely put Cyber City out of business. She'll lose her job. So will her employees. The economic impact, she says, will ripple out to the cafes' various vendors—the people who clean carpets, wash windows, pick up trash, and supply sodas. "We opened this business with the blessing of the state of Florida," she says. It would be unfair, she says, for the state to change the rules now.

"If they are so concerned about their citizens, they're thinking that this is so addictive, aren't they concerned about the money that they're spending on lottery tickets at the 7-Eleven?" says Smith. "That's addictive."

Smith says she hopes that the state decides to regulate the industry. "The owners have no problem with that," she says. Like most sweepstakes cafes, Cyber City stays open 24 hours a day, seven days a week. "What time do restaurants and bars have to close? At 2?" says Smith. "Close us at 2. We don't have to be open 24 hours."

Darryl Agostino, the co-owner of Jacks, says he too favors regulation. He believes that the racetracks are behind the state's interest in shutting down the sweepstakes cafes. Before opening Jacks in January 2010, Agostino worked in construction. "I had my own business," he says. "You know what? There's no work for me out there. ... I started seeing these popping up and thought it would be a good business."

Republican state representative Plakon, for one, believes that all the talk about regulating the industry is just a way to undermine the current bill. Any legislative attempt at regulation, he believes, will be a nonstarter in Tallahassee, in part because allowing the pop-up casinos would probably violate the state's exclusivity contract with the Seminole Indians. "If you create a new form of gambling, you're running astray of our tribal compact that is paying us a billion dollars over five years," says Plakon.

"The argument about regulation is a disingenuous one," he adds. "Are you going to hit the green button to allow 300 more gambling locations in the state? That would fly in the face of everything we've ever done about gambling."

The cops in Seminole County have come to believe that the parlors create quality of life issues. Not long ago they released an internal study, which found that the arrival of sweepstakes cafes resulted in a 22 percent rise in calls to the police and a 55 percent rise in crimes at the shopping malls where they operated.

Part of the problem, general counsel Kirsheman says, is that the cash-rich businesses have proven to be tempting targets to would-be robbers. In December 2010, a man walked into the Empire Internet Café in Lake Mary brandishing a spray bottle filled with gasoline and a lighter, attempting to rob the place. The clerk at the sweepstakes cafe pulled out a gun and opened fire. The assailant fled.

Around 1 a.m. on the morning of Apr. 19, two men entered the Allied Veterans #67 and got into an altercation with the security guard. As captured on security cameras, one of the men started shooting. The security guard returned fire, hitting one of the assailants, Gary Bryant, in the back. The men retreated to the parking lot and fired several more shots at the business before driving off. Police later found Bryant's body at a nearby hotel. Shortly thereafter, he was pronounced dead.

"These businesses are a bad idea for their communities," says Kirsheman.

Those who try and stop the spread often feel overpowered. "We're completely outgunned moneywise," says Kirsheman. "Part of the industry strategy is clearly to utilize the court system to bully local governments."

In the meantime, the sweepstakes industry will continue to recruit new entrepreneurs to the ranks. On his website, [sweepstakesmachines.com](http://sweepstakesmachines.com), James Mecham advises newcomers that in the end the rewards of getting into the business outweigh the potential risks. "There will ALWAYS be people sitting on the sidelines afraid to get into the Internet sweepstakes business," he writes. "Our answer is this ... there have been people trying to shut this business down for years. And it's still going. And people that got into it years ago are now sitting under a palm tree on a tropical island somewhere enjoying a piña colada."

*Gillette is a staff writer for Bloomberg Businessweek in New York.*

## St. Petersburg Times tampabay.com

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# PolitiFact: Internet sweepstakes cafes not found to be completely legal

By Aaron Sharockman, Times Staff Writer

*Internet sweepstakes cafes have not been ruled out - yet.*

State Rep. Peter Nehr is at odds with Pinellas County Sheriff Jim Coats over whether an Internet sweepstakes cafe the lawmaker has opened is against the law.

Nehr's business, Fun City Sweepstakes, sells phone cards.

But as the *St. Petersburg Times* reported Wednesday, for every \$1 a person spends on a card, he or she also gets 100 sweepstakes points to use at one of the business' 45 desktop computers. The computers can simulate the spinning images of a casino slot machine. You spin, and win, or lose. If you win, you can collect the winnings from the cashier.

Coats says he believes the sweepstakes businesses constitute gambling.

But Nehr, a Republican who represents northern Pinellas and a sliver of Pasco counties, disagrees.

"This is a legitimate business that has been vetted and found to be completely legal in the state," he told the *Times*. "I'm entitled like anyone else to open a legal business to earn money for my family."

Nehr sounded so sure about his business - saying that it "has been vetted and found to be completely legal" - that we wanted to check it out.

Our analysis concludes the law is murkier than Nehr lets on.

### Loophole or illegal?

Gambling is currently illegal in Florida except in places where it is specifically permitted - dog and horse tracks and on American Indian land. Nehr's business, and others like it across the state, operate not as gambling businesses but instead offer promotions for purchasing a service.

Nehr says it's like McDonald's restaurants that sell sodas with a scratch-off, or Monopoly tickets.

But in the case of Fun City Sweepstakes, Nehr gives customers who purchase a phone card an opportunity to win a casino-style sweepstakes game.

In 2007, the police chief of Cedar Grove, near Panama City, wrote to then-Attorney General Bill McCollum about a similar sweepstakes parlor to ask whether the business was violating state gambling laws as set out in state statutes.

McCollum responded, basically, that it's not clear.

McCollum wrote that the computer could constitute a gambling device and be illegal, or businesses may be illegally disguising gambling as legal "game promotion."

"However, this office recognizes that the ultimate determination of whether Florida's gambling laws may have been violated must be made by local law enforcement agencies," McCollum wrote.

The ambiguity has left law enforcement and prosecutors in a tough spot.

The fundamental question: Is it worth the time and effort and resources to prosecute a business that may or may not be breaking the law?

### **No convictions**

So members of the Florida Legislature are considering legislation that would ban the type of business altogether.

Rep. Scott Plakon, R-Longwood, has sponsored HB 217 to prohibit the use of simulated gaming for promotional purposes. The legislative analysis of the bill says there are questions over the legality of the sweepstakes games, and that different counties have handled them differently.

There have been just a few cases involving Internet sweepstakes cafes brought to court. So far, no one has been found guilty of gambling charges.

In Marion County, the owners of an Internet sweepstakes cafe like Nehr's were found not guilty on gambling charges in October 2010, the *Ocala Star-Banner* reported Oct. 18.

"We're going to see if the state attorney gets the message," said Kelly Mathis, the Jacksonville attorney who represented the sweepstakes cafe owner. "They (prosecutors) put on their best case, and they still can't show there was a violation of criminal law."

Other cases in Marion, Brevard and Sumter counties were either dismissed or the business owners reached an agreement with prosecutors that did not include a gambling conviction. No case has been reviewed by an appellate judge.

Where does this leave us?

Yes, it's true that no one has been found guilty of a crime for running a business like Nehr's, and some in the Legislature are trying to make the games explicitly illegal. But that doesn't mean the games themselves have been found to be completely legal.

It's a stretch for Nehr to say the operation has been vetted and is completely legal. So we rate this statement Half True.

### **The statement**

An Internet sweepstakes cafe is "a legitimate business that has been vetted and found to be completely

legal in the state."

**State Rep.** Peter Nehr, R-Tarpon Springs, in comments to the *St. Petersburg Times*

### The ruling

No one has been found guilty of a crime for running a business like Nehr's, and some in the Legislature are trying to make the games explicitly illegal. But that doesn't mean the games have been found to be "completely legal." We rate this statement Half True.



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