If you had a uniquely American machine from the late 19th Century, or the first half of the 20th Century that was beautiful in design, workmanship and operation; had its own specific place in the history of American science and technology; had made a major contribution to American social and commercial history; exemplified American ingenuity and know-how to the whole world; and one that you had lovingly restored to working order by yourself, would you keep it? All you can say is, "It depends." It depends on what it is. If it was an antique automobile, you'd probably be written up in the local newspaper as a technical historian, and asked to participate in Memorial Day Parades. If it was an antique airplane, you'd be well known at antique fly-ins and be respected as a mechanical genius. If it was an antique typewriter, washing machine, shotgun, steam engine, cannon, locomotive, camera or jukebox, you'd be regarded as someone who had a keen understanding of the technological advances of our age, and a historian to boot. But. . . if it was an antique slot machine, you've broken the law!

That's the case here in Tennessee and just a few other states. Every other state, even the federal government, has amended their laws to allow private ownership of antique gaming machines.

So why do these repressive state laws exist? Quite possibly the answer is that nobody has gotten around to changing the old laws. If that's the case, it's time something was done about it.

First of all, we should clarify something. We're not talking about gambling! We're asking for the legal right to restore and display antiques that happen to have a gambling feature. We're talking about the appreciation and restoration of valid American mechanical antiques.

The major fallacy in the whole legal concept of prohibiting the private ownership and display of mechanical gaming machines is the alleged connection with gambling. People who collect slot machines (Yes--there are collectors in Tennessee, in spite of the enormous legal difficulties) don't use them for gambling. For one thing, they don't like to have their treasured machines used too often. It wears them out, and parts can break. Secondly, there is no possible way to make money at it. The depreciation of today's pocket change and the expensive of buying and maintaining the machines would cost a lot more than the take. There's no way that a machine, or two, or twenty in a basement or game room could begin to pay their way. True, the real devotee wants the machines to work properly, and generally provides a bowl of coins so they can be played. But it's house money! I've never met a collector--and I've met many--that ever made money on their gaming machines through gambling. Entertainment, amusement and historical enlightenment, yes! Income via illegal gambling, no! Gambling isn't the attraction to the collector, it's the machines themselves!

Anyone in Tennessee that has a slot machine is automatically a criminal by virtue of machine ownership, whether it works or not. The law states: 39-17-505. Possession of gambling device or record -- Forfeiture. *"A person commits an offense who knowingly owns, manufactures, possesses, buys, sells, rents, leases, stores, repairs, transports, prints, or makes any gambling device or record."*

Certainly there are needs for laws that protect our citizens, and if the legal bodies across Tennessee agree that people should be protected against exploitation through criminally controlled gambling, such laws should be on the books. But they should be applied to the people that profit from such illegal gambling, not the historians and collectors of antique gambling devices.

The whole history of slot machines began with the creation of portable gambling devices for the “Sports men” that followed the westward-advance of the American frontier. The ultimate contribution was the classic “One-Arm Bandit” reportedly invented in 1895 by Charles A. Fey in San Francisco. It is an exciting history, rich in lore and lure, and one that will be lost forever unless tolerated and protected through permission to allow private restorers and collectors to own antique coin-operated gaming machines.” Imagine finding an old gaming machine that used to sit in jack Daniel’s White Rabbit Saloon in Lynchburg and not be able to display it because of these restrictive laws!

When revising the laws, we will need are some legal judgment that reveals antique gaming machines for what they are; objects of mechanical art rather than gambling devices. The question is: What is a mechanical antique? If it were an automobile, camera, toaster, or radio, anything over 25 years old, it is classified as an antique. The automobile even has legal status in this regard, with many states providing special antique license plates (at low rates!) for a car, truck, bus or other vehicle 25 years old or older. The same age status should be applied to coin-operated gaming machines making “mechanically operated gaming devices 25 years or older’ acceptable as bona-fide American mechanical antiques.

The hidden population of antique slot machines is far greater than you could possibly imagine. Just reflect for a moment. Do you know anyone with a slot, or slots? Add to that the many antique dealers across the state that have old slot machines in the back room. I gave a talk some months back to a high school and asked if any of the students had ever seen a slot machine. Over half of them raised their hands. Most of them said the machines were “in the basement” or rec room. None of these machines were operated as gambling devices, but were only there for decoration, or for “fun”, with the hosts generally supplying the coins. This suggests that not only historians and collectors, but a large portion of Tennessee’s population, are breaking gambling laws. Who, then, are these laws protecting? Should repressive and archaic laws be on the books at all if they are so out of touch with reality?

Changing the laws in Tennessee isn’t an easy thing to do. For one thing, laws aren’t changed just because a narrow group wants them changed. They should be changed if valid reasons exist for their revision in the interest of the public good. If private collectors can own and display AI Capone’s touring car, Adolph Hitler’s silver service, John Dillinger’s guns, or even a Japanese “Zero” fighter as used at Pearl Harbor, what possible harm to the public psyche can result from the ownership, display and occasional play (for amusement only) of an antique coin-operated mechanical gaming device? The obvious answer is none, and therein is valid reason enough to reconsider the laws that make such private ownership and enjoyment impossible.

Another benefit for Tennessee, if the laws were changed, is the added revenue generated from the sales tax of antique gaming machines from antiques dealers and auction houses. In late January 2017 there was an auction of about 900 antique gaming machines in Las Vegas. Total sales were a little over two million dollars. What if that auction were held here in Tennessee? With the laws written as they are now, that could never happen.

It’s time the laws in Tennessee were changed!

REVISED

Title 39 Criminal Offenses

Chapter 1 Offenses Against Public Health, Safety and Welfare

Part 5 Gambling

Tenn. Code Ann. § 39-17-505 (2016)

39-17-505. Possession of gambling device or record -- Forfeiture.

(a) (1) A person commits an offense who knowingly owns, manufactures, possesses, buys, sells, rents, leases, stores, repairs, transports, prints, or makes any gambling device or record.

(2) It is not an offense for a person to own or possess in this state a lottery ticket originating from a state in which a lottery is lawful, if the ticket is not owned or possessed for the purpose of resale.

(3) It is not an offense for a person to knowingly own, manufacture, possess, buy, sell, rent, lease, store, repair, transport, print or make any gambling device or record if the device or record is owned, manufactured, possessed, bought, sold, rented, leased, stored, repaired, transported, printed or made pursuant to title 4, chapter 51, part 1 (Lottery) and part 6 (Lottery) of this chapter.

(4) It is not an offense for a person to knowingly own, manufacture, possess, buy, sell, rent, lease, store, repair, transport, print or make any gambling device or record if the device or record is for the purpose of conducting an annual event pursuant to title 3, chapter 17, and part 6 of this chapter.

(5) It is not an offense for a person to knowingly own, manufacture, possess, buy, sell, store, repair, or transport any gambling device if the device is an antique coin machine as defined below.

(A) The purpose of this section is to protect and foster the collection and restoration of antique coin machines not used for gambling purposes, due to their aesthetic value and significance in United States and Tennessee history.

(B) An "antique coin machine" is defined as any mechanical device or contrivance that is twenty-five (25) or more years old and that is operated, played, worked, manipulated or used by inserting or depositing any coin, slug, token, or thing of value, in which any game may be played or in which may be seen any picture or heard any music or any form of diversion had, including, but not limited to, an antique slot machine, antique gambling device or antique gaming machine.

(C) An antique coin machine may be owned and possessed in this state and shall not be subject to confiscation or destruction without a judgment of court as provided for in this section, but may be seized as evidence when operated for unlawful gambling purposes.

(D) An antique coin machine seized as evidence in connection with unlawful gambling shall not be destroyed, altered or sold until the owner has been afforded a reasonable opportunity to present testimony and other evidence in court that the machine was not operated for unlawful gambling. If the court determines by a final and definitive judgment that such machine was operated for unlawful gambling, the court shall order the machine to be destroyed, altered or sold, but if the judgment is in favor of the owner, such machine shall be returned to its owner.

(E) An antique coin machine may be displayed in private dwellings or business or while being offered

for sale by a licensed retail dealer other than one licensed to sell alcoholic beverages. Such machine must be clearly marked by placard or otherwise that indicates that it is an antique and is not to be used for gambling purposes. If an antique coin machine is displayed in any other manner, it shall not be subject to the provisions of subsections (C) and (D) of this section.

(~~5~~6) (A) It shall not be an offense for a manufacturer of gambling devices to knowingly own, manufacture, assemble, design, possess, buy, sell, rent, lease, store, repair, transport, print or make any gambling device or record solely intended for gambling outside of this state and in compliance with the laws of the United States. The requirement that the manufacturing, selling or leasing of gambling devices be intended solely for gambling outside of the state shall not restrict uses of the gambling devices by the manufacturer that are ancillary or accessorial to the manufacturing, selling or leasing process or business, including, but not limited to, using the gambling devices for research and development, employee training, compliance program initiatives, testing and quality assurance processes, showroom display, leasing or purchasing or selling of gambling devices or parts or equipment, storage or warehousing of gambling devices or parts or equipment, maintenance or refurbishing of gambling devices or parts or equipment, and safekeeping of gambling devices or parts or equipment for future litigation. Also considered ancillary or accessorial to the manufacturing, selling or leasing process or business shall be the use or operation of computers, computer servers, and similar electronic devices, hardware and software, and all gambling records, data or information owned, maintained or stored thereupon, or produced, generated, created, printed, transported or transmitted therefrom, whether paper, electronic or otherwise, in conjunction with legal gambling and in compliance with the laws of the United States. Ancillary or accessorial uses shall not include use of the gambling devices or records that would allow persons physically present in the state of Tennessee to place gambling bets. This subdivision (a)(5) shall not apply unless the manufacturer meets or exceeds federal government requirements pursuant to 15 U.S.C. § 1171 et seq., and any regulations promulgated pursuant to 15 U.S.C. § 1171 et seq., and provides the secretary of state with a copy of the request for registration pursuant to 15 U.S.C. § 1173, together with copies of each gambling license or permit issued by any regulatory authority, including but not limited to any state, country, federally recognized tribe or United States territory, and pays a ten-thousand-dollar fee prior to January 1 of that year. Additionally, the manufacturer shall provide the secretary of state with proof of annual registration under 15 U.S.C. § 1173 with the office of the United States attorney general within thirty (30) days of the receipt thereof.

(B) The fee imposed by subdivision (a)(5)(A) shall not apply to nonprofit corporations licensed by the department of mental health and substance abuse services and certified by the department of human services to provide vocational rehabilitation job training programs that otherwise qualify for the exemption under subdivision (a)(5)(A).

(b) (1) Any gambling device or record is contraband and shall be subject to seizure, confiscation and forfeiture in accordance with the forfeiture provisions, compiled in chapter 11, part 7 of this title.

(2) After a gambling device or record has been forfeited to the state pursuant to chapter 11, part 7 of this title, the court hearing the criminal charges resulting in the forfeiture shall order the destruction of the device or record. If the district attorney general or law enforcement agency does not believe that a gambling device or record should be destroyed in a particular case, the district attorney general shall petition the court for an alternate disposition of the record or device. If the court finds that the proposed alternate disposition reasonably ensures that the device will not be used in an unlawful manner in this state, the court may grant the petition and order the disposition of the device or record in accordance with the petition.

(c) Possession of a gambling device or record is a Class B misdemeanor.