

# FAQ | ELECTRONIC GAMES OF SKILL

A resource for current and prospective ABC licensees, residents, and community groups.



## Q. WHAT IS A GAME OF CHANCE?

A. Games of chance are those in which the outcome (i.e., whether one wins or loses) is out of their control. Common examples include dice, roulette wheels, or numbered balls drawn from a container.

## Q. WHAT IS A GAME OF SKILL?

A. Games of skill require a player to employ a degree of proficiency and strategy to win. Games of skill vary in their appearance and challenge. Common examples include checkers and ring or bean bag toss.

## Q. ARE GAMES OF SKILL AND GAMES OF CHANCE LEGAL IN THE DISTRICT?

A. Games of chance, when expressly played to win money or property (excluding sports wagering), are unlawful in the District. The test for whether a game is a game of chance under D.C. Official Code § 22-1704 is whether chance predominates over skill or thwarts the exercise of skill.

District and federal law does not specifically prohibit or regulate games of skill played to win money or property.

## Q. HAS THE ABC BOARD RECEIVED ANY REQUESTS FROM ABC LICENSED ESTABLISHMENTS TO INSTALL ELECTRONIC GAMES OF SKILL ON THE PREMISES?

A. The Alcoholic Beverage Control (ABC) Board held a public hearing on October 9, 2019, regarding a licensee's request to install an electronic game of skill device called "Dragon's Ascent" on their premises. In response, the Alcoholic Beverage Regulation Administration (ABRA) requested a legal opinion from the District's Office of the Attorney General (OAG) on whether the proposed device was lawful under DC and federal law.

Based upon representations made by the requesting establishment and game creator to the ABC Board, analysis of relevant laws in the District, and cases interpreting other games, the OAG determined there is no element of chance anywhere in the proposed game, and is therefore permissible.

## Q. IS THE OAG ADVISORY OPINION PUBLICLY AVAILABLE?

A. The OAG's Legal Advice Concerning Whether "Dragon's Ascent" Machines are Gambling Devices (AL-19-696) is available on the Games of Skill Guidance webpage at [abra.dc.gov](http://abra.dc.gov).

Any future legal opinions pertaining to the permissibility of discreet games of skill terminals or devices will be similarly added to ABRA's website.

## Q. IS ABC BOARD'S APPROVAL IN ORDER TO INSTALL ELECTRONIC GAMES OF SKILL DEVICES ON ITS PREMISES?

A. Yes. Establishments interested in adding an electronic game of skill device must apply for a Games of Skill Endorsement by submitting a Games of Skill Substantial Change Application to ABRA. All applications are subject to ABC Board approval. *(Over, please)*

[www.abra.dc.gov](http://www.abra.dc.gov)

**Q. WHY DOES ADDING AN ELECTRONIC GAME OF SKILL DEVICE REQUIRE A SUBSTANTIAL CHANGE APPLICATION?**

A. Games of skill devices, specifically played to win money or property, have not previously been regulated so the activity would not have been included in the licensee's previously approved ABC license application.

Under § 25-762, proposed changes to a licensee's normal operation are evaluated on a case-by-case basis to determine if the change is substantial enough to be of potential concern to the community. Other examples requiring approval include increasing occupancy and creating an area for live entertainment.

**Q. WHAT IS THE APPLICATION FEE?**

There is currently no fee to submit a Games of Skill Substantial Change Application.

**Q. WHO CAN PROTEST AN APPLICATION?**

A. If deemed a substantial change, persons and entities with standing in accordance with D.C. Official Code § 25-601, may file a protest in response to a Games of Skill Substantial Change Application.

**Q. WHERE CAN I DIRECT QUESTIONS?**

A. To learn more about Alcoholic beverage licensing including Games of Skill Endorsements, visit [abra.dc.gov/page/licensing](http://abra.dc.gov/page/licensing) or call 202.442.4423

Additionally, ANC commissioners and community group members can connect directly with ABRA's Community Resource Officer Sarah Fashbaugh at [sarah.fashbaugh@dc.gov](mailto:sarah.fashbaugh@dc.gov) or 202.397.3971.