



State of New Jersey

Philip D. Murphy
Governor

Tahesha L. Way
Lt. Governor

Office of the Attorney General
Department of Law and Public Safety
Division of Gaming Enforcement
140 East Front Street
P.O. Box 047
Trenton, NJ 08625

Matthew J. Platkin
Attorney General

Mary Jo Flaherty
Interim Director

May 16, 2024

SENT VIA EMAIL TO BRYAN.MCCRORY@DAVEANDBUSTERS.COM

Bryan McCrory, Vice President,
General Counsel and Secretary
Dave & Buster's Entertainment, Inc.
1221 South Beltline Road
Suite 500
Coppell, TX 75019

Re: Information Request

Dear Mr. McCrory:

This letter is sent on behalf of the New Jersey Division of Gaming Enforcement (NJDE). Pursuant to N.J.S.A. 5:12-77, NJDE is a law enforcement agency within the New Jersey Department of Law and Public Safety and is charged with enforcing the Casino Control Act, N.J.S.A. 5:12-1 *et seq.*, and the Sports Wagering Act, N.J.S.A. 5:12A-10 *et seq.*

NJDE is aware of your plans to integrate software from Lucra into your Dave and Buster's (D&B) app which will allow customers to play arcade games while engaging in cash-based competitions with other customers. NJDE has reviewed a press announcement issued by D&B and Lucra, together with other news articles. See, for example, <https://www.nj.com/business/2024/04/dave-busters-will-soon-allow-bets-on-arcade-games-heres-what-we-know.html> and <https://www.businesswire.com/news/home/20240429412806/en/The-Game-Within-The-Game-Lucra-Establishes-B2B-Presence-with-Blockbuster-Dave-and-Buster%E2%80%99s-Deal>.



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While it is not clear from public reporting whether the contests from the Lucra arrangement will be offered in New Jersey D&B locations, NJDGE has concerns, informed by statements made that frame the contests as one of "skill," that the proposed games may be considered gambling under New Jersey state laws and regulations. NJDGE needs to learn more about these announced contests to inform its review of the situation.

By way of background, the New Jersey State Constitution prohibits all forms of gambling except those specifically approved by the people in a referendum. To date, approved forms of wagering include: pari-mutuel wagering on horse races; State lottery; bingo; raffles; arcade gaming; sports wagering; and casino gaming in Atlantic City. All forms of gambling are regulated by the State. NJDGE licenses and regulates casino gambling which is legally conducted only at casino hotels in Atlantic City or through the Internet and mobile devices pursuant to a partnership with an Atlantic City casino. NJDGE also licenses and regulates sports wagering, which is legally permissible at both casinos and racetracks or through the Internet and mobile devices through partnerships with those facilities. Arcade games, on the other hand, are overseen by the Legalized Games of Chance Control Commission located within the New Jersey Division of Consumer Affairs (DCA) and, through its regulation, are authorized only for the awarding of merchandise prizes. Any gambling not authorized and regulated is subject to enforcement as a criminal offense under Chapter 37 of the New Jersey Criminal Code, *N.J.S.A. 2C-37-1 et seq.*

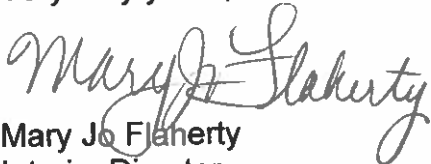
Only specific types of skill games are authorized by statute. Those activities include fantasy sports, authorized by *N.J.S.A. 5:20-1 et seq.*, and Contests of Skill, as defined in *N.J.S.A. 5:19-1 et seq.* The latter statute requires a contest to be submitted to and approved by the Attorney General of New Jersey in order to qualify. Furthermore, only contests such as a baking contest or photography contest that are judged by a panel or an expert can qualify under this statute.

NJDGE is aware D&B operates four locations in New Jersey at this time. Please confirm whether the game described in your press announcement has been or will be offered in connection with your existing New Jersey locations or otherwise made available to New Jersey customers. If so, please provide NJDGE with a detailed description of how the game will work, including whether cash is required to play, how winnings are determined, whether winnings will be paid in cash or in forms convertible into cash, and what arcade or amusement games will be eligible for participation. In addition, please submit any legal opinions that you may have obtained regarding the legality of this activity in New Jersey. Finally, please identify any other states where this game is currently offered or planned to be offered.

The above information and documentation must be submitted to Deputy Attorney General Michael Golub at Michael.Golub@njdge.gov within **ten (10) business days** of this letter, unless otherwise agreed to by NJDGE in writing.

Your failure to respond to this request within the requested timeframe will require NJDGE to evaluate your game based solely on publicly-available information. Please be aware that offering unregulated gambling contests and operating a mobile game for New Jersey customers outside of NJDGE regulation may subject D&B to liability for violations, including criminal violations, of New Jersey law. In addition, DCA may exercise its jurisdiction related to amusement game licenses held by entities found to be in violation of the law. Similarly, the New Jersey Division of Alcoholic Beverage Control (ABC) may take action regarding any liquor licenses held by D&B properties in New Jersey if they are found to be in violation of laws prohibiting the consumption of alcoholic beverages in locations where contests involving gambling or games of chance are taking place. ABC and DCA are copied on this correspondence, and will be provided with copies of the materials that D&B submits.

Very truly yours,


Mary Jo Flaherty
Interim Director

C: Louis Rogacki, Deputy Director, NJDGE
Chuck Kimmel, Deputy Attorney General, NJDGE
Michael J. Golub, Deputy Attorney General, NJDGE
Cari Fais, Acting Director, New Jersey Division of Consumer Affairs
Jeremy Hollander, Deputy Director, New Jersey Division of Consumer Affairs
Kirstin Krueger, Interim Director, New Jersey Division of Alcoholic Beverage Control