



Washington State Gambling Commission

Protect the Public by Ensuring that Gambling is Legal and Honest.

January 21, 2025

Regarding Virtual Casinos:

A recent case out of the Ninth Circuit, *Kater v. Churchill Downs*, provided clarification on the issue of virtual casino games that offer virtual currency for purchase.

To summarize *Kater*, the virtual casino games in question operated by providing virtual currency to players that could be used to play virtual casino games, such as slot machine style games. This virtual currency could be earned with or without a player having to make a purchase and a player could not play the games without the virtual currency. “Thus, if a user runs out of virtual chips and wants to continue playing Big Fish casino, she must buy more chips to have ‘the privilege of playing the game.’” *Kater v. Churchill Downs Inc.*, 886 F.3d 784 (9th Cir. 2018).

Notably, the only Washington court to analyze section 9.46.0285 supports our conclusion. In *Bullseye Distributing LLC v. State Gambling Commission*, the Washington Court of Appeals held that an electronic vending machine designed to emulate a video slot machine was a gambling device. 127 Wash.App. 231, 110 P.3d 1162, 1163, 1167 (2005). To use the machine, players utilized play points that they obtained by purchase, by redeeming a once-a-day promotional voucher, or by winning a game on the machine. *Id.* at 1163–64. In reviewing an administrative law judge's decision, the court concluded that the game's play points were “things of value” because “they extend[ed] the privilege of playing the game without charge,” even though they “lack[ed] pecuniary value on their own.” *Kater v. Churchill Downs Inc.*, 886F.3d 784, 787 (9th Cir. 2018)

The *Kater* court determined the virtual currency to be a “thing of value” under RCW 9.46.0285. A “thing of value,” as used in the RCW, means:

any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise, directly or indirectly, contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge. (RCW 9.46.0285).

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A subsequent decision has followed *Kater* in recognizing virtual currency as a “thing of value.” See *Larsen v. PTT, LLC*. A full reading of these decisions can be found here: [Kater v. Churchill Downs Inc., 886 F.3d 784 | Casetext Search + Citator](#); [Larsen v. PTT, LLC, 3:18-cv-05275-TMC | Casetext Search + Citator](#)

Therefore, games of chance such as those in *Kater* and *Larsen* that ask the player to wager virtual currency for the potential of winning more virtual currency are likely to constitute illegal gambling. Washington State law establishes that all gambling is illegal unless specifically authorized by law. WSGC encourages all companies that offer virtual casino games to Washington residents to review their games and ensure compliance with Washington State law.

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