



GAMBLING

REGULATION IN BRAZIL

DEMAREST

INTRODUCTION

One of the biggest bets for 2023 is the regulation of gambling¹ in Brazil. Some forms of gambling and betting in the country (such as fixed-odds sports betting) still lack specific regulations. Moreover, some games are still illegal (“games of chance”, whose outcome depends on “luck”). However, these obstacles have not held back the gambling and betting market in the past few years.

Studies have shown that gambling in Brazil generated an average of BRL 7 billion in 2020². **This amount is expected to rise to BRL 12 billion³ in 2023.** In fact, it is estimated that **illegal gambling currently generates around BRL 27 billion a year in Brazil⁴.**

Clearly, if the gambling sector were supported by greater legal certainty, the industry could potentially thrive even more. With a marked increase in the number of sports betting operators sponsoring Brazilian soccer premier league clubs, the opportunities that regulation could bring to the industry are numerous.

Although the country lacks effective regulation, the numbers involved in the gambling sector are still substantial, due in large part to where gambling companies are located. Most companies operating

the gambling sector in Brazil are based abroad (and operate through a website hosted by a foreign server). In other words, they operate in locations where gambling and betting are legal and regulated.

This regulatory landscape prevents the Brazilian government from taking advantage of opportunities in the gambling sector, such as collecting fees and taxes through concession/licensing and creating new jobs. Additionally, gamblers themselves can face difficulties in situations that involve claiming their rights and receiving prizes to which they are entitled. As gambling is not overseen by Brazilian bodies, any legal disputes involving this industry can be challenging to resolve through Brazilian courts.

Because of the need to resolve these issues, some Bills of Law (“PLs”) are currently pending approval in Congress. Lawmakers are beginning to see the opportunities that gambling activities offer. In 2023, the Brazilian Congress is expected to regulate or legalize some types of gambling and betting.

Demarest’s multidisciplinary team has prepared this booklet to share information on Brazil’s gambling and betting legislation and the Bills currently under discussion.

¹ Gambling Law” – in reference to the activities that include gambling activities that result in pecuniary awards

² Available in: <https://gente.globo.com/o-mercado-de-apostas-esportivas/>

³ Available in: <https://rciararaquara.com.br/destaques/veja-se-o-faturamento-dos-jogos-de-azar-online-cresceu-em-2022/>

⁴ Available in: <https://igamingbrazil.com/legislacao/2022/01/17/entenda-como-esta-o-projeto-para-liberar-jogos-de-azar-em-avaliacao-na-camara/>



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WHICH TYPES OF GAMBLING AND BETTING ARE ALLOWED/PROHIBITED IN BRAZIL?

Game/Betting Types	Is it legal or illegal?	Is there regulation (including pending approval)?
 Gambling (Games of Chance) ⁵	Illegal (Criminal Misdemeanor Law, art. 50)	<u>PL No. 442/1991</u> <u>PLS No. 2648/2019</u> <u>PLS No. 4495/2020</u> <u>PLS No. 186/2014</u>
 Bingo	Legal (Provided that it meets all legal requirements and/or specific authorizations)	<u>PL No. 442/1991</u> <u>Law No. 13,204/2015</u> <u>Law No. 9,981/2000</u>
 Poker	Legal	<u>PL No. 442/1991</u>
 Horse racing betting	Legal (Provided that it meets all legal requirements and only in authorized racetracks ⁶)	<u>Law No. 7,291/84</u> <u>Decree No. 96,993/88</u>
 Fixed-odds sports betting	Legal (Pending regulation to be duly exploited)	<u>Law No. 13,756/18</u> , commonly named the “Sports Betting Law”
 Video games	Legal (as long as they are not games of chance, such as slot machines)	<u>PL No. 2796/2021</u>

⁵ Criminal Misdemeanor Law defines “gambling” as: (i) games whose wins and losses **depend exclusively or mainly on luck**; (ii) horse racing bets carried out outside a racetrack or duly authorized venues; (iii) any other modality of sports betting.

⁶ Online betting is possible, if carried out **through official channels and directly managed by authorized horse racing venues, supported by auditable monitoring systems**, under the opinion of the Ministry of Agriculture, Livestock and Food Supply (“MAPA”).

Game/Betting Types	Is it legal or illegal?	Is there regulation (including pending approval)?
 <p><i>Jogo do Bicho</i>⁷</p>	<p>Illegal (<u>Criminal Misdemeanor Law, art. 50</u>)</p>	<p><u>PL No. 442/1991</u> <u>PLS No. 186/2014</u></p>
 <p>Lottery</p>	<p>Legal (Public Service – Caixa Econômica Federal (Government) monopoly – discussions within the scope of the judiciary branch for exploitation at the state level)</p>	<p><u>Decree-Law No. 204/67</u> <u>Law No. 13,756/18</u> <u>Decree No. 6,259/44</u></p>
 <p>Casinos</p>	<p>Illegal (<u>Criminal Misdemeanor Law, art. 50</u>)</p>	<p><u>PL No. 442/1991</u> <u>PLS No. 2648/2019</u> <u>PLS No. 4495/2020</u> <u>PLS No. 186/2014</u></p>
 <p>Betting on any other type of sports competition</p>	<p>Illegal (<u>Criminal Misdemeanor Law, art. 50</u>)</p>	<p>It is considered a “game of chance”/gambling.</p>

⁷ It is a lottery-type drawing, operated on a regional basis through the daily state lottery draw, by illegal bookies known as bicheiros or banqueiros.

PENDING BILLS

Bill	Summary	Status ⁸
<u>PL No. 442/1991</u> “Regulatory Gambling and bets Framework in Brazil”	Establishes the operation of gambling and betting in Brazil; amends Law No. 7,291, issued on December 19, 1984; repeals Decree-Law No. 9,215, issued on April 30, 1946; repeals provisions of Decree-Law No. 3,688, issued on October 03, 1941 (Criminal Misdemeanor Law), and Law No. 10,406, issued on January 19, 2002 (Civil Code).	Bill is in an advanced stage, pending the Senate’s approval (in the revision stage)
<u>PLS No. 186/2014</u>	Establishes the operation of gambling (games of chance) activities; defines “games of chance” , how they take place, what the requirements are, and where allocation the funds collected through such games are allocated; establishes potential administrative misconduct and crimes related to the violation of gambling regulation.	On December 21, 2022, the bills were shelved at the end of the legislature. However, the bills may return to the voting agenda if one-third of the House (27 senators) submit a request until February 02. The full court must approve this request.
<u>PLS No. 2648/2019</u>	Establishes the setting up of casinos in resorts that operate or will operate in Brazil, among other provisions.	Pending the Senate’s approval (the house that proposed the bill – first stage) - approved application
<u>PLS No. 4495/2020</u>	Establishes implementing touristic compounds (resorts) with casinos through Government concessions.	Pending the Senate’s approval (the house that proposed the bill – first stage) - approved application
<u>PL No. 2796/2021</u>	Establishes the legal framework for the video game industry and fantasy games.	Bill is in an advanced stage, pending the Senate’s approval (in the revision stage)

The information in this booklet was updated on January 19, 2023; therefore, it is subject to change at the time of reading. We recommend checking for updates on official websites.

⁸ The house that proposed the Bill initiates the approval process. After that, the Bill’s approval needs to be revised by another house. In other words, the Bill must be approved by both houses.

INTELLECTUAL PROPERTY AND THE LGPD - REGULATORY OPPORTUNITIES AND BENEFITS IN THE GAMBLING INDUSTRY



The regulation of the gambling sector in Brazil is extremely important for the Brazilian economy, as it can generate additional revenue related to the exploitation of these activities, even if indirectly. For example, there are numerous opportunities related to trademark licensing and technology, including the development and use of artificial intelligence. As such, good intellectual property practices must be established and followed, in order to protect copyright and

trademark rights, for example. Another important aspect concerns the privacy and protection of the personal data of players or bettors. The Brazilian General Data Protection Law (Law No. 13,709/18 or “LGPD”) came into effect in 2020 and introduced rules applicable to the processing of personal data, including in digital media.

As a result, professional legal advice is essential for companies that operate in this sector, both online and offline, in order to process personal data in the safest and most appropriate way for their business. In particular, companies must take advantage of the opportunity to earn the trust of players and bettors by processing their data in a transparency way, as well as delivering to these users a more customizable experience based on their personal tastes and preferences, which can be achieved through the targeted processing of their personal data. Demonstrating compliance with the legislation to the general public, as well as optimized and intelligent processing of personal data, can bring various advantages to businesses within the scope of gambling and betting.

MAIN CONTACTS

Demarest's multidisciplinary team will continue to monitor the developments on the matter and is available to provide any further clarifications that may be necessary.



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