

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH80452-LBx-367 (05/19)

Short Title: Increase Regulation of Amusement Devices. (Public)

Sponsors: Representatives Culpepper, Harrell, G. Allen, and Owens (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCREASE REGULATION OF THE POSSESSION OR OPERATION
OF VIDEO GAMING MACHINES AND PROVIDING FUNDING FOR SUCH
REGULATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-306(c) reads as rewritten:

"(c) Any video machine, the operation of which is made lawful by ~~subsection~~
subdivision (b)(2) of this section, shall have affixed to it in view of the player a sticker
informing that person that it is a criminal offense with the potential of imprisonment for
the location where video gaming machines are operating to pay more than that which is
allowed by law. Within 60 days after the effective date of this sentence, all machines
referred to in subdivision (b)(2) of this section will be equipped with a hand count
feature to permit the reconciliation of the number of plays and the number of paper
coupons issued. In addition, if the machine has an attract chip which allows
programming, the static display shall contain the same ~~message~~-message regarding the
illegality of payments in excess of those allowed by law."

SECTION 2. G.S. 14-306.1 reads as rewritten:

"§ 14-306.1. Types of machines and devices prohibited by law; penalties.

(a) Ban on New Machines. – It shall be unlawful for any person to operate, allow
to be operated, place into operation, or keep in that person's possession for the purpose
of operation any video gaming machine as defined in subsection (c) of this section
unless either:

(1) Such machine was:

a. Lawfully in operation, and available for play, within this State
on or before June 30, 2000; and

1 b. Listed in this State by January 31, 2000 for ad valorem taxation
2 for the 2000-2001 tax year; or

3 (2) Such machine is within the scope of the exclusion provided in
4 G.S. 14-306(b)(1).

5 (b) Prohibition of More Than Three Existing Video Gaming Machines at One
6 Location. – It shall be unlawful for any person to operate, allow to be operated, place
7 into operation, or keep in that person's possession for the purpose of operation at one
8 location more than three video gaming machines as defined in subsection (c).

9 (c) Definitions. – As used in this section, a video gaming machine means a slot
10 machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or
11 computer games such as by way of illustration:

12 (1) A video poker game or any other kind of video playing card game.

13 (2) A video bingo game.

14 (3) A video craps game.

15 (4) A video keno game.

16 (5) A video lotto game.

17 (6) Eight liner.

18 (7) Pot-of-gold.

19 (8) A video game based on or involving the random or chance matching of
20 different pictures, words, numbers, or symbols not dependent on the
21 skill or dexterity of the player.

22 For the purpose of this section, a video gaming machine is a video machine which
23 requires deposit of any coin, token, or use of any credit card, debit card, or any other
24 method that requires payment to activate play of any of the games listed in this
25 subsection. The enumeration of games in the list in this subsection does not authorize
26 the possession or operation of such game if it is otherwise prohibited by law.

27 For the purpose of this section, a video gaming machine includes those that are
28 within the scope of the exclusion provided in G.S. 14-306(b)(2), but does not include
29 those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

30 (d) Age Requirement. – It shall be an infraction for any person under the age of
31 18 years to play any video gaming machine defined in subsection (c) of this section. It
32 shall be unlawful for the operator of the video gaming machine to knowingly allow a
33 person under the age of 18 years to play any video gaming machine as proscribed by
34 this subsection.

35 (e) Hours of Operation. – It shall be unlawful to operate or allow the operation of
36 any video gaming machine during the hours of 2:00 A.M. Sunday through 7:00 A.M.
37 Monday.

38 (f) Plain View. – Any video gaming machine available for operation shall be in
39 plain view of persons visiting the premises.

40 (g) Advertising Prohibited. – It is unlawful to advertise the operation of video
41 gaming machines by use of on-premise or off-premise signs.

42 (g1) Each video gaming machine shall have a serial number which shall be
43 permanently affixed to the machine. No machine operated under this section shall

1 display the words "jackpot," "casino," or "Las Vegas," either with signage or
2 electronically nor shall such machine emit those words in an audible fashion.

3 (h) Proximity to Other Locations Regulated; Permanent Building Required. –
4 Each location where it is lawful to operate any video gaming machines as defined in
5 G.S. 14-306.1(c) shall be at least 300 feet in any plane from any other location where
6 such machines are operated. For the purpose of this section, a location is a permanent
7 building having, or being within, a single exterior structure. Notwithstanding this
8 subsection, two or more places where video gaming machines were lawfully operated
9 under separate ownership on June 30, 2000, shall be considered to be separate locations
10 more than 300 feet from each other, regardless of the distance from each other or
11 whether they are located in the same building or edifice. Video gaming machines as
12 defined in G.S. 14-306.1(c) may be operated only within permanent buildings.

13 (i) Registration With Sheriff. Alcohol Law Enforcement (A.L.E.). – No later than
14 October 1, 2000, October 1, 2004, the owner of any video ~~game~~ gaming machine which
15 is regulated by this section shall register the machine with the Sheriff of the county in
16 which the machine is located and which was previously eligible to be registered with the
17 appropriate Sheriff in calendar year 2000 under the previous version of this subsection
18 shall register all machines with Alcohol Law Enforcement using a standardized
19 registration form or online process supplied by the Sheriff. A.L.E. Such registration shall
20 contain the name and address of the machine owner, the serial number of all machines
21 owned by said machine owner, the name and address of the location of all such
22 machines at the time of registration, as well as the name of the owner of the location of
23 all machines in operation. Any change in location of registered machines for
24 warehousing or temporarily for repair of nonoperational machines, or to another
25 business location for operation must be reported to A.L.E. within five days of such
26 relocation and before such machines are operational. A.L.E. shall be allowed by all such
27 businesses where machines are operated or housed to enter the premises to inspect its
28 video gaming machines.

29 The registration form shall be signed under oath by the owner of the machine. A
30 material false statement in the registration form shall subject the owner to seizure of the
31 machine under G.S. 14-298 in addition to any other punishment imposed by law. ~~At any~~
32 ~~time that the video gaming machine is moved to a different location, the owner shall~~
33 ~~reregister the machine with the Sheriff prior to its being placed in operation. At a~~
34 ~~minimum, the registration form shall require that the registrant provide evidence of the~~
35 ~~date on which the machine was placed in operation, the serial number of the machine,~~
36 ~~the location of the facility at which the machine is operated, and the name of the owner~~
37 ~~of the facility at which the machine is operated. Each Sheriff shall report to the Joint~~
38 ~~Legislative Commission on Governmental Operations no later than November 1, 2000,~~
39 ~~on the total number of machines registered in that county, itemizing how many locations~~
40 ~~have one, two, or three machines.~~

41 ~~(j) Report on Receipts and Prizes and Merchandise Awarded. — The owner of~~
42 ~~each machine or the agent of that owner shall report each calendar quarter to the~~
43 ~~Department of Revenue, under oath on a form provided by that Department, the total~~
44 ~~amount of gross receipts itemized by each machine, the number of machines at that~~

1 location, and the total value of prizes and merchandise awarded to players of each
2 machine at that location. The report shall be filed by the fifteenth day of the month after
3 the quarter ends. Failure of the owner or agent to timely file the required report, or filing
4 a report containing a material false statement shall subject the owner of the machine to
5 seizure of the machine under G.S. 14-298 in addition to any other punishment imposed
6 by law. Upon request of the Sheriff of the county, the Department of Revenue shall
7 forward a copy of the report to the Sheriff of the county where the machines are located.
8 The Department of Revenue shall compile the reports and make a summary report each
9 quarter to the Joint Legislative Commission on Governmental Operations.

10 (k) ~~Report to 2001 Session.~~— The North Carolina Sheriffs' Association, Inc.,
11 after consultation with the Division of Alcohol Law Enforcement, and the Conference
12 of District Attorneys of North Carolina, shall report to the Joint Legislative Commission
13 on Governmental Operations no later than January 1, 2001, its estimates of the costs of
14 the registration process and the cost of enforcement of this section, along with suggested
15 fees to make the registration and enforcement self-supporting, and recommendations as
16 to a system with registration at the State level and primary enforcement at the local
17 level. ~~Such fee schedule is not effective until approved by the General Assembly.~~

18 (l) Exemption for Certain Machines. – This section shall not apply to
19 assemblers, manufacturers, and transporters of video gaming machines who assemble,
20 manufacture, and transport them for sale in another state as long as the machines, while
21 located in this State, cannot be used to play the prohibited games, and does not apply to
22 those who assemble, manufacture, and sell such machines for the use only by a federally
23 recognized Indian Tribe if such machines may be lawfully used on Indian Land under
24 the Indian Gaming Regulatory Act.

25 (m) ~~Ban on Warehousing.~~ Warehousing Permitted. – It is ~~unlawful~~ lawful to
26 warehouse any number of video gaming machine ~~except in conjunction with the~~
27 ~~permitted assembly, manufacture, and transportation of such machines~~ which are lawful
28 ~~under subsection (l) of this section.~~ section and which are not in operation.

29 (n) Exemption for Activities Under IGRA. – This section does not make any
30 activities of a federally recognized Indian Tribe unlawful or against public policy,
31 which are lawful for any federally recognized Indian Tribe under the Indian Gaming
32 Regulatory Act, Public Law 100-497.

33 (o) ~~No Local Preemption.~~ – This section ~~does not preempt~~ preempts any more
34 restrictive ordinance lawfully adopted under Article 18 of Chapter 153A of the General
35 Statutes or under Article 19 of Chapter 160A of the General Statutes.

36 (p) No person who has been convicted:

- 37 (1) Once under G.S. 14-309(a) or (b) may own or possess any video
38 gaming machine as defined in G.S. 14-306.1 for a period of one year.
- 39 (2) Twice under G.S. 14-309(a) or (b) may own or possess any video
40 gaming machine as defined in G.S. 14-306.1 for a period of two years.
- 41 (3) Three or more times under G.S. 14-309(a) or (b) may own or possess
42 any video gaming machine.

43 (q) Not Legalizing Unlawful Activity. – This section does not make lawful any
44 activity which is currently unlawful."

1 **SECTION 3.** G.S. 14-298 reads as rewritten:

2 "**§ 14-298. ~~Gaming tables, illegal punchboards, slot machines, and prohibited~~**
3 **~~video game machines to be destroyed by police officers.~~** Seizure of illegal
4 **gaming items.**

5 ~~All sheriffs and officers of police are hereby authorized and directed, on information~~
6 ~~made to them on oath~~ Upon a determination that probable cause exists to believe that
7 any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal
8 punchboard or illegal slot machine, or any video game machine prohibited to be used by
9 G.S. 14-306 or G.S. 14-306.1, is in the illegal possession or use of any person within the
10 limits of their jurisdiction, all A.L.E. and other law enforcement officers are authorized
11 to seize the items. ~~to destroy the same by every means in their power; and they shall call~~
12 ~~to their aid all the good citizens of the county, if necessary, to effect its destruction.~~ Any
13 law enforcement agency in possession of that item shall retain the item pending a
14 disposition order from a district or superior court judge. Upon application by the law
15 enforcement agency, district attorney, or owner, and after notice and opportunity to be
16 heard by all parties, if the court determines that the item is unlawful to possess by its
17 owner, it shall enter an order releasing the item to the law enforcement agency for
18 destruction or for training purposes. If the court determines that the item is not unlawful
19 to possess by its owner, the item shall be ordered released to its owner upon satisfactory
20 proof of ownership. The foregoing procedures for release shall not apply, however, with
21 respect to an item seized for use as evidence in any criminal action or proceeding until
22 after entry of final judgment."

23 **SECTION 4.** G.S. 14-309 reads as rewritten:

24 "**§ 14-309. Violation made criminal.**

25 (a) Any person who violates any provision of G.S. 14-304 through 14-309 is
26 guilty of a Class 1 misdemeanor for the first offense, and is guilty of a Class I felony for
27 a second offense and a Class H felony for a third or subsequent offense.

28 (b) Notwithstanding the provisions of subsection (a) of this section, any person
29 violating the provisions of G.S. 14-306.1 involving the operation of five or more
30 machines prohibited by that section or knowingly owning or possessing a machine
31 which was not eligible for registration on October 1, 2000, under the language of
32 G.S. 14-306.1 effective as of that date, is guilty of a Class G felony."

33 **SECTION 5.** Article 2 of Chapter 105 of the General Statutes is amended by
34 adding a new section to read:

35 "**§ 105-37.3. Video gaming machines.**

36 (a) Scope. – A privilege tax is imposed on operation of a video gaming machine
37 as defined in G.S. 14-306.1.

38 (b) Rate and Payment. – The rate of the privilege tax is one hundred twenty-five
39 dollars (\$125.00) per calendar quarter, payable by the fifteenth day of the first month of
40 each calendar quarter, for each location the video gaming machines are operated as of
41 the first day of each calendar quarter, to be paid by the proprietor of the business where
42 the machine is located.

43 (c) The quarterly tax levied under subsection (b) of this section shall be paid
44 beginning with the third calendar quarter of 2004.

1 (d) Use by A.L.E. – The privilege permit tax paid under subsection (b) of this
2 section shall be credited to the budget of the Alcohol Law Enforcement Division and
3 shall be used for administering G.S. 14-298, 14-306, 14-306.2, and 14-309 or for other
4 law enforcement purposes.

5 (e) Local Taxes. – Cities and counties may not levy a license or permit tax on a
6 person taxed under this section."

7 **SECTION 6.** This act becomes effective October 1, 2004.