

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE DRH80612-MHf-139A (05/10)

Short Title: Video Gaming Entertainment Act.

(Public)

Sponsors: Representative K. Alexander.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW VIDEO GAMING FOR THE PURPOSE OF PROFIT SHARING  
3 WITH THE STATE OF NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. The General Statutes are amended by adding a new Chapter to read:

6 "**Chapter 18D.**

7 "**Video Gaming Entertainment.**

8 "Article 1.

9 "General Provisions.

10 "**§ 18D-101. Citation.**

11 This Chapter shall be known as, and may be cited as, the Video Gaming Entertainment Act.

12 "**§ 18D-102. Definitions.**

13 The following definitions apply in this Chapter:

- 14 (1) Department. – The Department of Revenue.
- 15 (2) Gross income. – Wagers inserted into a video gaming machine minus credits  
16 paid out in cash.
- 17 (3) Licensed establishment. – Any establishment owned or managed by a permit  
18 holder and licensed by the Department.
- 19 (4) Licensed operator. – A person who owns a video gaming machine for which  
20 a video gaming permit has been issued by the Department.
- 21 (5) Simulated game of chance. – A computer-based game in which the player  
22 entries that will result in the awarding of further game credits, cash, or prizes  
23 have been determined prior to play.
- 24 (6) Video gaming machine. – A computer terminal or any other video display  
25 device that is used to reveal sweepstakes entries, or play simulated games of  
26 chance and rewards players with either further game credits, cash, or prizes.
- 27 (7) Video gaming permit. – A permanently affixed tag or other device issued to  
28 a licensed operator for each video gaming machine approved by and  
29 registered with the Department.
- 30 (8) Wager. – A sum of money or thing of value risked on an uncertain  
31 occurrence.

32 "Article 2.

33 "Permits.

34 "**§ 18D-201. Video gaming permit required on video gaming machines.**



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1       (a)    The Department shall make available a video gaming permit that shall be affixed to  
2 all approved video gaming machines in a location and manner set forth by the Department. The  
3 placement of the video gaming permit represents that the machine has been registered,  
4 inspected, and approved for operation in the State.

5       (b)    The Department shall issue the video gaming permit annually, based on the number  
6 of approved machines registered with the Department per licensed operator.

7       (c)    No person other than authorized Department personnel and the licensed operator  
8 may affix or remove a video gaming permit.

9       (d)    Manufacturers and licensed operators must make video gaming machines and  
10 associated equipment available for inspection by the Department.

11       (e)    No video gaming machine may be transported out of the State until the video  
12 gaming permit has been removed.

13 **"§ 18D-202. Qualifications for licensed operator.**

14       (a)    Except as provided in subsection (b) of this section, an individual, group of  
15 individuals, corporation, partnership, or association whom the Department determines is  
16 qualified to receive a license under this Chapter shall be issued an operator's license.

17       (b)    The Department may not approve a licensed operator applicant if any of the  
18 following apply:

19           (1)   The applicant has not been a resident of North Carolina for at least three  
20 years immediately preceding the application.

21           (2)   The applicant has been convicted of a felony or any gambling offense in any  
22 state or federal court of the United States within 10 years of entering into the  
23 contract, or employs officers and directors who have been convicted of a  
24 felony or any gambling offense in any state or federal court of the United  
25 States within 10 years of entering into the contract.

26           (3)   The applicant is less than 21 years of age.

27           (4)   The applicant has falsified the application.

28           (5)   The applicant is not current in filing all applicable tax returns to the State  
29 and in payment of all taxes, interest, and penalties owed to the State,  
30 excluding items under formal appeal under applicable statutes.

31           (6)   The applicant is a permit holder or an employee of a licensed establishment.

32       (c)    The applicant must furnish all information, documents, certifications, consents,  
33 waivers, individual history forms, and other materials required or requested by the Department  
34 for purposes of determining qualification for an operator's license. The Department may not  
35 approve a licensed operator applicant if the applicant fails to provide information and  
36 documentation requested by the Department.

37       (d)    The applicant must submit to a background investigation, including each partner,  
38 director, officer, and all stockholders of any business entity. The application shall be  
39 accompanied by the fee to cover the cost of the criminal record check conducted under  
40 G.S. 114-19.26.

41       (e)    A licensed operator may not make available a total of more than 500 video gaming  
42 machines in the State to be played or operated at any one time.

43       (f)    The burden of proof for qualification under this section shall be on the applicant.

44 **"§ 18D-203. Licensed establishments.**

45       (a)    The Department may not license any establishment in which the applicant is:

46           (1)   A natural person under 21 years of age.

47           (2)   A person whose establishment would be engaged exclusively in the business  
48 of housing video gaming machines.

49           (3)   A person who is not current in filing all applicable tax returns to the State  
50 and in payment of all taxes, interest, and penalties owed to the State,  
51 excluding items under formal appeal under applicable statutes. Upon request

1 of the Director, the Department of Revenue shall provide this information  
2 about a specific person to the Commission.

3 (b) The applicant for a licensed operator's status shall provide all of the following  
4 information to the Department:

5 (1) Name of the licensed establishment.

6 (2) Address of the licensed establishment.

7 (3) Phone number of the licensed establishment.

8 (4) Name, address, and phone number of the owner of the licensed  
9 establishment.

10 (c) The application shall be accompanied by the fee to cover the cost of the criminal  
11 record check conducted under G.S. 114-19.26.

12 (d) There shall be no more than one licensed establishment per single roofline.

13 **"§ 18D-204. Fees.**

14 (a) Each applicant for an operator's license shall pay an annual fee of five thousand  
15 dollars (\$5,000).

16 (b) The Department shall charge a licensed operator an annual fee of two hundred fifty  
17 dollars (\$250.00) per video gaming machine. The fee shall be prorated on a quarterly basis and  
18 may not be refunded if the video gaming machine ceases operation before the permit expires.  
19 Failure to pay shall be cause for revocation of the operator's license.

20 (c) The Department shall be entitled to an administrative expense reimbursement  
21 withholding of four percent (4%) of the fees collected under this section. The remainder of fees  
22 collected under subsection (a) of this section shall be remitted to the General Fund. The  
23 remainder of fees collected under subsection (b) of this section shall be distributed by the  
24 Secretary to the county where the establishment is located, except that if the establishment is  
25 located within the corporate limits of a city, the Department shall distribute to the city.

26 "Article 3.

27 "Video Gaming Machines.

28 **"§ 18D-301. Possession.**

29 (a) Only video gaming machines with a video gaming permit may be placed in a  
30 licensed establishment. No more than 10 video gaming machines with a video gaming permit  
31 may be located in any licensed establishment.

32 (b) Licensed operators shall file with the Department the location of any establishment  
33 in which permitted video gaming machines are located, and those locations shall be licensed  
34 establishments. The Department shall not issue any license for an establishment located within  
35 50 feet of a church, public school, or any nonpublic school as defined by Parts 1 or 2 of Article  
36 39 of Chapter 115C of the General Statutes.

37 (c) Video gaming machines with a video gaming permit may not be played by persons  
38 less than 18 years of age.

39 (d) The Department shall adopt rules regulating temporary replacement of a video  
40 gaming machine for servicing and repair. The Department may not charge an additional fee for  
41 the temporary replacement video gaming machine.

42 (e) The Department may engage an independent firm experienced in security  
43 procedures, including computer security and systems security, to conduct a comprehensive  
44 study and evaluation of all aspects of security in the operation of the video gaming machines.  
45 At a minimum, such a security assessment should include a review of network vulnerability,  
46 application vulnerability, application code review, wireless security, security policy and  
47 processes, security/privacy program management, technology infrastructure and security  
48 controls, security organization and governance, and operational effectiveness.

49 **"§ 18D-302. Play.**

50 A video gaming machine with a video gaming permit may not allow more than five dollars  
51 (\$5.00) to be played on a single wager.

1 **"§ 18D-303. Video gaming contract.**

2 (a) The Department shall develop a model contract to be used between licensed  
3 operators and licensed establishments. The Department may seek input into the development of  
4 the model contract from licensed operators and permit holders.

5 (b) All contracts between licensed operators and licensed establishments shall address  
6 the need to report to the Internal Revenue Service and the Department any credits paid out in  
7 cash to individuals playing the video gaming machine.

8 (c) Other than the compensation provided in G.S. 18D-40, a licensed operator shall not  
9 offer any item of value to a licensed establishment or an employee of a licensed establishment  
10 in exchange for allowing the licensed operator to place video gaming machines in the licensed  
11 establishment.

12 **"§ 18D-304. Transportation between licensed establishments in the State.**

13 Any person transporting a video gaming machine from one licensed establishment to  
14 another in the State, other than for servicing or repair, shall notify the Department in writing  
15 prior to the transportation of the video gaming machine. The written notification shall contain  
16 at least all of the following:

- 17 (1) The full name and address of the person or entity transporting the video  
18 gaming machine.
- 19 (2) The reason for the transportation of the video gaming machine.
- 20 (3) The full name, address, and license number of the licensed establishment  
21 where the video gaming machine is currently located.
- 22 (4) The full name and address of the person or entity to whom the video gaming  
23 machine is being delivered and the destination of the video gaming machine  
24 if it is different from the address.
- 25 (5) The serial and model number of the video gaming machine.
- 26 (6) The video gaming machine permit number.
- 27 (7) The expected date and time of the transportation.

28 "Article 4.

29 "Enforcement.

30 **"§ 18D-401. Enforcement.**

31 The Unauthorized Substance Division of the Department shall have sole enforcement  
32 authority of this Chapter.

33 **"§ 18D-402. Inspection of premises, records, activities.**

34 At any time during normal business hours, the Department may inspect a licensed  
35 establishment or a licensed manufacturer. The inspection may include the examination of  
36 records, equipment, and proceeds related to the operation."

37 **SECTION 2.** G.S. 14-292 reads as rewritten:

38 **"§ 14-292. Gambling.**

39 Except as provided in Chapter 18C or Chapter 18D of the General Statutes or in Part 2 of  
40 this Article, any person or organization that operates any game of chance or any person who  
41 plays at or bets on any game of chance at which any money, property or other thing of value is  
42 bet, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor. This section  
43 shall not apply to a person who plays at or bets on any lottery game being lawfully conducted  
44 in any state."

45 **SECTION 3.** G.S. 14-293 reads as rewritten:

46 **"§ 14-293. Allowing gambling in houses of public entertainment; penalty.**

47 Except as provided in Chapter 18C or Chapter 18D of the General Statutes, if any keeper of  
48 an ordinary or other house of entertainment, or of a house wherein alcoholic beverages are  
49 retailed, shall knowingly suffer any game, at which money or property, or anything of value, is  
50 bet, whether the same be in stake or not, to be played in any such house, or in any part of the  
51 premises occupied therewith; or shall furnish persons so playing or betting either on said

1 premises or elsewhere with drink or other thing for their comfort or subsistence during the time  
2 of play, he shall be guilty of a Class 2 misdemeanor. Any person who shall be convicted under  
3 this section shall, upon such conviction, forfeit his license to do any of the businesses  
4 mentioned in this section, and shall be forever debarred from doing any of such businesses in  
5 this State. The court shall embody in its judgment that such person has forfeited his license, and  
6 no board of county commissioners, board of town commissioners or board of aldermen shall  
7 thereafter have power or authority to grant to such convicted person or his agent a license to do  
8 any of the businesses mentioned herein."

9 **SECTION 4.** G.S. 14-296 reads as rewritten:

10 **"§ 14-296. Illegal slot machines and punchboards defined.**

11 Except as provided in Chapter 18D of the General Statutes, An illegal slot machine or  
12 punchboard within the contemplation of G.S. 14-295 through 14-298 is defined as a device  
13 where the user may become entitled to receive any money, credit, allowance, or any thing of  
14 value, as defined in G.S. 14-306."

15 **SECTION 5.** G.S. 14-299 reads as rewritten:

16 **"§ 14-299. Property exhibited by gamblers to be seized; disposition of same.**

17 Except as provided in Chapter 18C or Chapter 18D of the General Statutes or in  
18 G.S. 14-292, all moneys or other property or thing of value exhibited for the purpose of alluring  
19 persons to bet on any game, or used in the conduct of any such game, including any motor  
20 vehicle used in the conduct of a lottery within the purview of G.S. 14-291.1, shall be liable to  
21 be seized by any court of competent jurisdiction or by any person acting under its warrant.  
22 Moneys so seized shall be turned over to and paid to the treasurer of the county wherein they  
23 are seized, and placed in the general fund of the county. Any property seized which is used for  
24 and is suitable only for gambling shall be destroyed, and all other property so seized shall be  
25 sold in the manner provided for the sale of personal property by execution, and the proceeds  
26 derived from said sale shall (after deducting the expenses of keeping the property and the costs  
27 of the sale and after paying, according to their priorities all known prior, bona fide liens which  
28 were created without the lienor having knowledge or notice that the motor vehicle or other  
29 property was being used or to be used in connection with the conduct of such game or lottery)  
30 be turned over and paid to the treasurer of the county wherein the property was seized, to be  
31 placed by said treasurer in the general fund of the county."

32 **SECTION 6.** G.S. 14-301 reads as rewritten:

33 **"§ 14-301. Operation or possession of slot machine; separate offenses.**

34 Except as provided in Chapter 18D of the General Statutes, Hit shall be unlawful for any  
35 person, firm or corporation to operate, keep in his possession or in the possession of any other  
36 person, firm or corporation, for the purpose of being operated, any slot machine or device  
37 where the user may become entitled to receive any money, credit, allowance, or any thing of  
38 value, as defined in G.S. 14-306. Each time said machine is operated as aforesaid shall  
39 constitute a separate offense."

40 **SECTION 7.** G.S. 14-302 reads as rewritten:

41 **"§ 14-302. Punchboards, vending machines, and other gambling devices; separate**  
42 **offenses.**

43 Except as provided in Chapter 18D of the General Statutes, Hit shall be unlawful for any  
44 person, firm or corporation to operate or keep in his possession, or the possession of any other  
45 person, firm or corporation, for the purpose of being operated, any punchboard, slot machine or  
46 device where the user may become entitled to receive any money, credit, allowance, or any  
47 thing of value, as defined in G.S. 14-306. Each time said punchboard, slot machine or device  
48 where the user may become entitled to receive any money, credit, allowance, or any thing of  
49 value, as defined in G.S. 14-306 is operated, played, or patronized by the paying of money or  
50 other thing of value therefor, shall constitute a separate violation of this section as to operation  
51 thereunder."

1           **SECTION 8.** G.S. 14-304 reads as rewritten:

2   "**§ 14-304. Manufacture, sale, etc., of slot machines and devices.**

3       Except as provided in Chapter 18D of the General Statutes, it shall be unlawful to  
4 manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away,  
5 transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give  
6 away, or to permit the operation of, or for any person to permit to be placed, maintained, used  
7 or kept in any room, space or building owned, leased or occupied by him or under his  
8 management or control, any slot machine or device where the user may become entitled to  
9 receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306."

10           **SECTION 9.** G.S. 14-305 reads as rewritten:

11   "**§ 14-305. Agreements with reference to slot machines or devices made unlawful.**

12       Except as provided in Chapter 18D of the General Statutes, it shall be unlawful to make or  
13 permit to be made with any person any agreement with reference to any slot machines or device  
14 where the user may become entitled to receive any money, credit, allowance, or any thing of  
15 value, as defined in G.S. 14-306 pursuant to which the user thereof may become entitled to  
16 receive any money, credit, allowance, or anything of value or additional chance or right to use  
17 such machines or devices, or to receive any check, slug, token or memorandum entitling the  
18 holder to receive any money, credit, allowance or thing of value."

19           **SECTION 10.** G.S. 14-306 is amended by adding a new subsection to read:

20       "(e) This section shall not apply to any video gaming machine permitted under Chapter  
21 18D of the General Statutes."

22           **SECTION 11.** G.S. 14-306.1A is amended by adding a new subsection to read:

23       "(g) This section shall not apply to any video gaming machine permitted under Chapter  
24 18D of the General Statutes."

25           **SECTION 12.** Article 4 of Chapter 114 is amended by adding a new section to  
26 read:

27   "**§ 114-19.26. Criminal history record checks of video gaming licenses and permits issued**  
28   **by the Department of Revenue.**

29       The Department of Justice may provide to the Department of Revenue and to its Director  
30 from the State and National Repositories of Criminal Histories the criminal history of any  
31 prospective licensed operator and any prospective licensed establishment. The Department of  
32 Revenue shall provide to the Department of Justice, along with the request, the fingerprints of  
33 the prospective licensee, a form signed by the prospective licensee consenting to the criminal  
34 history record check and use of fingerprints, and other identifying information required by the  
35 State and National Repositories, and any additional information required by the Department of  
36 Justice. The fingerprints of the prospective licensee shall be forwarded to the State Bureau of  
37 Investigation for a search of the State's criminal history record file, and the State Bureau of  
38 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a  
39 national criminal history record check. The Department of Revenue shall keep all information  
40 obtained pursuant to this section confidential. The Department of Justice shall charge a  
41 reasonable fee only for conducting the checks of the criminal history records authorized by this  
42 section."

43           **SECTION 13.** This act becomes effective January 1, 2011, and applies to offenses  
44 committed on or after that date.