

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 2030

Short Title: Video Gaming Entertainment Act. (Public)

Sponsors: Representatives K. Alexander; and Mackey.

Referred to: Judiciary I, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Finance.

May 26, 2010

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.

35 (a) The Department shall make available a video gaming permit that shall be affixed to
36 all approved video gaming machines in a location and manner set forth by the Department. The



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1 placement of the video gaming permit represents that the machine has been registered,
2 inspected, and approved for operation in the State.

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

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

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

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

11 **"§ 18D-202. Qualifications for licensed operator.**

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

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

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

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

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

25 (4) The applicant has falsified the application.

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

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

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

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

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

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

42 **"§ 18D-203. Licensed establishments.**

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

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

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

47 (3) A person who is not current in filing all applicable tax returns to the State
48 and in payment of all taxes, interest, and penalties owed to the State,
49 excluding items under formal appeal under applicable statutes. Upon request
50 of the Director, the Department of Revenue shall provide this information
51 about a specific person to the Commission.

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

3 **(1)** Name of the licensed establishment.

4 **(2)** Address of the licensed establishment.

5 **(3)** Phone number of the licensed establishment.

6 **(4)** Name, address, and phone number of the owner of the licensed
7 establishment.

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

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

11 **"§ 18D-204. Fees.**

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

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

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

24 "Article 3.

25 "Video Gaming Machines.

26 **"§ 18D-301. Possession.**

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

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

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

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

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

47 **"§ 18D-302. Play.**

48 A video gaming machine with a video gaming permit may not allow more than five dollars
49 (\$5.00) to be played on a single wager.

50 **"§ 18D-303. Video gaming contract.**

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

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

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

11 **"§ 18D-304. Transportation between licensed establishments in the State.**

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

16 (1) The full name and address of the person or entity transporting the video
17 gaming machine.

18 (2) The reason for the transportation of the video gaming machine.

19 (3) The full name, address, and license number of the licensed establishment
20 where the video gaming machine is currently located.

21 (4) The full name and address of the person or entity to whom the video gaming
22 machine is being delivered and the destination of the video gaming machine
23 if it is different from the address.

24 (5) The serial and model number of the video gaming machine.

25 (6) The video gaming machine permit number.

26 (7) The expected date and time of the transportation.

27 "Article 4.

28 "Enforcement.

29 **"§ 18D-401. Enforcement.**

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

32 **"§ 18D-402. Inspection of premises, records, activities.**

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

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

37 **"§ 14-292. Gambling.**

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

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

45 **"§ 14-293. Allowing gambling in houses of public entertainment; penalty.**

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

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

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

9 **"§ 14-296. Illegal slot machines and punchboards defined.**

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

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

15 **"§ 14-299. Property exhibited by gamblers to be seized; disposition of same.**

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

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

32 **"§ 14-301. Operation or possession of slot machine; separate offenses.**

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

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

40 **"§ 14-302. Punchboards, vending machines, and other gambling devices; separate**
41 **offenses.**

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

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

1 **"§ 14-304. Manufacture, sale, etc., of slot machines and devices.**

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

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

10 **"§ 14-305. Agreements with reference to slot machines or devices made unlawful.**

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

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

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

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

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

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

26 **"§ 114-19.26. Criminal history record checks of video gaming licenses and permits issued**
27 **by the Department of Revenue.**

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

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