

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-6
SENATE BILL 912**

AN ACT TO PHASE OUT THE POSSESSION OR OPERATION OF VIDEO GAMING MACHINES BY LIMITING THE NUMBER OF VIDEO GAMING MACHINES THAT MAY BE POSSESSED OR OPERATED TO TWO PER LOCATION ON OCTOBER 1, 2006, AND TO ONE PER LOCATION ON MARCH 1, 2007, AND TO PROHIBIT POSSESSION OR OPERATION OF VIDEO GAMING MACHINES AS OF JULY 1, 2007, EXCEPT PURSUANT TO A TRIBAL-STATE COMPACT.

The General Assembly of North Carolina enacts:

SECTION 1. Effective October 1, 2006, G.S. 14-306.1(b) reads as rewritten:

"(b) Prohibition of More Than ~~Three~~-Two Existing Video Gaming Machines at One Location. – 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 at one location more than ~~three~~-two video gaming machines as defined in subsection (c)."

SECTION 2. Effective March 1, 2007, G.S. 14-306.1(b), as amended by Section 1 of this act, reads as rewritten:

"(b) Prohibition of More Than ~~Two~~-One Existing Video Gaming ~~Machines~~ Machine at One Location. – 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 at one location more than ~~two~~-one video gaming ~~machines~~-machine as defined in subsection (c)."

SECTION 3. G.S. 14-306.1 is repealed.

SECTION 4. Part 1 of Article 37 of Chapter 14 of the General Statutes is amended by adding a new section to read:

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

(a) Ban on 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 (b) of this section, except for the exemption for a federally recognized Indian tribe under subsection (e) of this section for whom it shall be lawful to operate and possess machines as listed in subsection (b) of this section if conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe, as provided in G.S. 147-12(14) and G.S. 71A-8.

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

- (1) A video poker game or any other kind of video playing card game.
- (2) A video bingo game.
- (3) A video craps game.
- (4) A video keno game.
- (5) A video lotto game.
- (6) Eight liner.
- (7) Pot-of-gold.
- (8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

For the purpose of this section, a video gaming machine is a video machine which requires deposit of any coin or token, or use of any credit card, debit card, or any other method that requires payment to activate play of any of the games listed in this subsection.

For the purpose of this section, a video gaming machine includes those that are within the scope of the exclusion provided in G.S. 14-306(b)(2) unless conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8. For the purpose of this section, a video gaming machine does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

(c) Exemption for Certain Machines. – This section shall not apply to:

- (1) Assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming machines who assemble, repair, manufacture, sell, lease, or transport them for use out-of-state, or
- (2) Assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming machines who assemble, repair, manufacture, sell, or lease video gaming machines for use only by a federally recognized Indian tribe if such machines may be lawfully used on Indian land under the Indian Gaming Regulatory Act.

To qualify for an exemption under this subsection, the machines must be disabled and not operable, unless the machines are located on Indian land where they may be lawfully operated under a Tribal-State Compact.

(d) Ban on Warehousing. – It is unlawful to warehouse any video gaming machine except in conjunction with the activities permitted under subsection (c) of this section.

(e) Exemption for Activities Under IGRA. – Notwithstanding any other prohibitions in State law, the form of Class III gaming otherwise prohibited by subsections (a) through (d) of this section may be legally conducted on Indian lands which are held in trust by the United States government for and on behalf of federally recognized Indian tribes if conducted in accordance with an approved Class III Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8."

SECTION 5. G.S. 14-306.2 reads as rewritten:

"§ 14-306.2. Violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A a violation of the ABC laws.

A violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A is a violation of the gambling statutes for the purposes of G.S. 18B-1005(a)(3)."

SECTION 6. G.S. 147-12(14) reads as rewritten:

"(14) To negotiate and enter into Class III Tribal-State gaming compacts, and amendments thereto, on behalf of the State consistent with State law and the Indian Gaming Regulatory Act, Public Law 100-497, as necessary to allow a federally recognized Indian tribe to operate gaming activities in this State as permitted under federal law. The Governor shall report any gaming compact, or amendment thereto, to the Joint Legislative Commission on Governmental Operations."

SECTION 7. G.S. 14-306.1(i) reads as rewritten:

"(i) Registration With Sheriff. – No later than October 1, 2000, the owner of any video game which is regulated by this section shall register the machine with the Sheriff of the county in which the machine is located using a standardized registration form supplied by the Sheriff. The registration form shall be signed under oath by the owner of the machine. A material false statement in the registration form shall subject the owner to seizure of the machine under G.S. 14-298 in addition to any other punishment imposed by law. ~~At any time that the video gaming machine is moved to a different location, the owner shall reregister the machine with the Sheriff prior to its being placed in operation.~~ At a minimum, the registration form shall require that the registrant provide evidence of the date on which the machine was placed in operation, the serial number of the machine, the location of the facility at which the machine is operated, and the name of the owner of the facility at which the machine is operated. Each Sheriff shall report to the Joint Legislative Commission on Governmental Operations no later than November 1, 2000, on the total number of machines registered in that county, itemizing how many locations have one, two, or three machines. No machine may be moved from its registered location except in conjunction with the activities described in subsections (l) and (m) of this section."

SECTION 8. G.S. 14-306.1(l) reads as rewritten:

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

(l) Exemption for Certain Machines. – This section shall not apply to:

- (1) Assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming machines who assemble, repair, manufacture, sell, lease, or transport them for use out-of-state, or
- (2) Assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming machines who assemble, repair, manufacture, sell, or lease video gaming machines for use only by a federally recognized

Indian tribe if such machines may be lawfully used on Indian land under the Indian Gaming Regulatory Act.

To qualify for an exemption under this subsection, the machines must be disabled and not operable, unless the machines are located on Indian land where they may be lawfully operated under a Tribal-State Compact."

SECTION 9. G.S. 14-306.1(m) reads as rewritten:

"(m) Ban on Warehousing. – It is unlawful to warehouse any video gaming machine except in conjunction with the ~~permitted assembly, manufacture, and transportation of such machines under subsection (l) of this section.~~ activities permitted under subsection (l) of this section."

SECTION 10. G.S. 105-256(d)(1) is repealed, but that repeal does not affect reports for activities prior to July 1, 2007.

SECTION 11. G.S. 14-309 reads as rewritten:

"§ 14-309. Violation made criminal.

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

(b) Notwithstanding the provisions of subsection (a) of this section, any person violating the provisions of ~~G.S. 14-306.1~~G.S. 14-306.1A involving the operation of five or more machines prohibited by that section is guilty of a Class G felony."

SECTION 12. Section 1 of this act becomes effective October 1, 2006, and applies to offenses committed on or after that date; Section 2 of this act becomes effective March 1, 2007, and applies to offenses committed on or after that date; and Sections 3 through 5, 10, and 11 become effective July 1, 2007, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law. Prosecutions for offenses committed before the effective dates in this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions. If a final Order by a court of competent jurisdiction prohibits possession or operation of video gaming machines by a federally recognized Indian tribe because that activity is not allowed elsewhere in this State, this act is void.

In the General Assembly read three times and ratified this the 6th day of June, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:10 p.m. this 6th day of June, 2006