

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

5

SENATE BILL 1542
Finance Committee Substitute Adopted 6/27/00
Third Edition Engrossed 6/29/00
House Committee Substitute Favorable 7/7/00
Fifth Edition Engrossed 7/7/00

Short Title: Video Poker Machines.

(Public)

Sponsors:

Referred to:

May 30, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO PLACE A MORATORIUM ON THE INTRODUCTION OF NEW VIDEO
3 GAMING MACHINES INTO THIS STATE, TO LIMIT THE NUMBER OF VIDEO
4 GAMING MACHINES TO THREE PER LOCATION, TO DEFINE LOCATION,
5 TO PROVIDE FOR REGISTRATION OF MACHINES, TO REQUIRE REPORTS
6 TO THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY,
7 EXEMPTING CERTAIN ACTIVITIES, INCREASING CRIMINAL PENALTIES
8 FOR VIOLATION, PROVIDING FOR SUSPENSION OR REVOCATION OF
9 LICENSES FOR VIOLATION, REQUIRING LABELING OF MACHINES AS TO
10 PENALTIES FOR CASH PAYOUTS, AND PROVIDING FOR SEIZURE OF
11 UNLAWFUL VIDEO GAMING MACHINES.
12 The General Assembly of North Carolina enacts:
13 Section 1. Chapter 14 of the General Statutes is amended by adding a new
14 section to read:
15 "**§ 14-306.1. Types of machines and devices prohibited by law; penalties.**

1 (a) Moratorium. – It shall be unlawful for any person to operate, place into
2 operation, or keep in that person's possession for the purpose of operation any video
3 gaming machine as defined in subsection (c) of this section which was not in operation in
4 this State on or before June 29, 2000, if the machine would have been unlawful but for
5 the exception in G.S. 14-306(b). This subsection expires July 1, 2002.

6 (b) Prohibition of More Than Three Video Gaming Machines at One Location. – It
7 shall be unlawful for any person to operate, place into operation, or keep in that person's
8 possession for the purpose of operation at one location more than three video gaming
9 machines as defined in subsection (c) of this section which would have been unlawful but
10 for the exception in G.S. 14-306(b).

11 (c) Definitions. – This section applies to the following games:

12 (1) A video poker game or any other kind of video 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) A video game that involves matching different pictures, words,
18 numbers, or symbols.

19 (7) Eight liner.

20 (8) Pot-of-gold.

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

25 (d) Proximity to Other Locations Regulated. – Each location where it is lawful to
26 operate up to three machines shall be at least 300 feet in any plane from any other
27 location where such machines are operated. For the purpose of this section, a location is
28 a building, vehicle, or edifice having, or being within, a single exterior structure.
29 Notwithstanding this subsection, two or more places where video gaming machines were
30 lawfully operated under separate ownership on June 29, 2000, shall be considered to be
31 separate locations, regardless of the distance from each other or whether they are located
32 in the same building or edifice.

33 (e) Registration With Sheriff. – No later than October 1, 2000, the owner of any
34 video game which is regulated by this section shall register the machine with the Sheriff
35 of the county in which the machine is located using a standardized registration form
36 supplied by the Sheriff. At any time that the video gaming machine is moved to a
37 different location, the owner shall reregister the machine with the Sheriff prior to it being
38 placed in operation. At a minimum, the registration form shall require that the registrant
39 provide evidence of the date on which the machine was placed in operation, the serial
40 number of the machine, the location of the facility at which the machine is operated, and
41 the name of the owner of the facility at which the machine is operated. A valid State,
42 county, or municipal license for that machine with the appropriate date is prima facie
43 evidence that such machine was in operation on the date the license was issued. Each

1 Sheriff shall report to the Joint Legislative Commission on Governmental Operations no
2 later than November 1, 2000, on the total number of machines registered in that county,
3 itemizing how many locations have one, two, or three machines.

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

12 (g) Exemption for Certain Machines. – This section shall not apply to assemblers,
13 manufacturers, and transporters of the prohibited machines and devices who assemble,
14 manufacture, and transport them for sale in another state as long as the machines, while
15 located in this State, cannot be used to play the prohibited games, and does not apply to
16 those who assemble, manufacture, and sell such machines for the use only by a federally
17 recognized Indian Tribe if such machines may be lawfully used on Indian Land under the
18 Indian Gaming Regulatory Act.

19 (h) Exemption for Activities Under IGRA. – This section does not make any
20 activities of a federally recognized Indian Tribe unlawful or against public policy, which
21 are lawful for any federally recognized Indian Tribe under the Indian Gaming Regulatory
22 Act.

23 (i) Not Legalizing Unlawful Activity. – This section does not make lawful any
24 activity which is currently unlawful."

25 Section 2. G.S. 105-113.4B reads as rewritten:

26 **"§ 105-113.4B. Reasons why the Secretary can cancel a license.**

27 (a) Reasons. – The Secretary may cancel a license issued under this Article upon
28 the written request of the license holder. The Secretary may summarily cancel the license
29 of a license holder when the Secretary finds that the license holder is incurring liability
30 for the tax imposed under this Article after failing to pay a tax when due under this
31 Article. In addition, the Secretary may cancel the license of a license holder that commits
32 one or more of the following acts after holding a hearing on whether the license should be
33 cancelled:

34 (1) A violation of this Article.

35 (2) A violation of G.S. 14-401.18.

36 (3) A violation of any provision of G.S. 14-304 through G.S. 14-309.

37 (b) Procedure. – The Secretary must send a person whose license is summarily
38 cancelled a notice of the cancellation and must give the person an opportunity to have a
39 hearing on the cancellation within 10 days after the cancellation. The Secretary must give
40 a person whose license may be cancelled after a hearing at least 10 days' written notice of
41 the date, time, and place of the hearing. A notice of a summary license cancellation and a
42 notice of hearing must be sent by registered mail to the last known address of the license
43 holder."

1 Section 3. G.S. 14-309 reads as rewritten:

2 **"§ 14-309. Violation made ~~misdemeanor~~ criminal.**

3 (a) Any person who violates any provision of G.S. 14-304 through 14-309 is guilty
4 of a ~~Class 2 misdemeanor~~ Class 1 misdemeanor for the first offense, and is guilty of a
5 Class I felony for a second offense and a Class H felony for a third or subsequent offense.

6 (b) Notwithstanding the provisions of subsection (a) of this section, any person
7 violating the provisions of G.S. 14-306.1 involving the operation of 4 or more machines
8 prohibited by that section is guilty of a Class G felony.

9 (c) In addition to any other punishment imposed, the violator shall be, as a
10 condition of probation, prohibited from possessing any video gaming machine as defined
11 in G.S. 14-306.1 for a period of one year."

12 Section 4. G.S. 14-306 reads as rewritten:

13 **"§ 14-306. Slot machine or device defined.**

14 (a) Any machine, apparatus or device is a slot machine or device within the
15 provisions of G.S. 14-296 through 14-309, if it is one that is adapted, or may be readily
16 converted into one that is adapted, for use in such a way that, as a result of the insertion
17 of any piece of money or coin or other object, such machine or device is caused to
18 operate or may be operated in such manner that the user may receive or become entitled
19 to receive any piece of money, credit, allowance or thing of value, or any check, slug,
20 token or memorandum, whether of value or otherwise, or which may be exchanged for
21 any money, credit, allowance or any thing of value, or which may be given in trade, or
22 the user may secure additional chances or rights to use such machine, apparatus or
23 device; or any other machine or device designed and manufactured primarily for use in
24 connection with gambling and which machine or device is classified by the United States
25 as requiring a federal gaming device tax stamp under applicable provisions of the Internal
26 Revenue Code. This definition is intended to embrace all slot machines and similar
27 devices except slot machines in which is kept any article to be purchased by depositing
28 any coin or thing of value, and for which may be had any article of merchandise which
29 makes the same return or returns of equal value each and every time it is operated, or any
30 machine wherein may be seen any pictures or heard any music by depositing therein any
31 coin or thing of value, or any slot weighing machine or any machine for making stencils
32 by the use of contrivances operated by depositing in the machine any coin or thing of
33 value, or any lock operated by slot wherein money or thing of value is to be deposited,
34 where such slot machines make the same return or returns of equal value each and every
35 time the same is operated and does not at any time it is operated offer the user or operator
36 any additional money, credit, allowance, or thing of value, or check, slug, token or
37 memorandum, whether of value or otherwise, which may be exchanged for money,
38 credit, allowance or thing of value or which may be given in trade or by which the user
39 may secure additional chances or rights to use such machine, apparatus, or device, or in
40 the playing of which the operator does not have a chance to make varying scores or
41 tallies.

42 (b) The definition contained in ~~the first paragraph~~ subsection (a) of this section and
43 G.S. 14-296, 14-301, 14-302, and 14-305 does not include coin-operated machines, video

1 games, and devices used for amusement. Included within this exception are pinball
2 machines, video games, and other mechanical devices that involve the use of skill or
3 dexterity to make varying scores or tallies and which, in actual operation, limit to eight
4 the number of accumulated credits or replays that may be played at one time and which
5 may award free replays or paper coupons that may be exchanged for prizes or
6 merchandise with a value not exceeding ten dollars (\$10.00), but may not be exchanged
7 or converted to money.

8 (c) Any video machine, the operation of which is made lawful by the last sentence
9 of subsection (b) of this section, shall have affixed to it in view of the player a sticker
10 informing that person that it is a criminal offense with the potential of imprisonment to
11 pay more than that which is allowed by law. In addition, if the machine has an attract
12 chip which allows programming, the static display shall contain the same message.

13 (d) The exception in subsection (b) of this section does not apply to any machine
14 that pays off in cash. The exemption in subsection (b) of this section does not apply
15 where the prizes, merchandise, credits, or replays are (i) repurchased for cash or rewarded
16 by cash, (ii) exchanged for merchandise of a value of more than ten dollars (\$10.00), or
17 (iii) where there is a cash payout of any kind, by the person operating or managing the
18 machine or the premises, or any agent or employee of that person. It is also a criminal
19 offense, punishable under G.S. 14-309, for the person making the unlawful payout to the
20 player of the machine to violate this section, in addition to any other person whose
21 conduct may be unlawful."

22 Section 5. G.S. 14-298 reads as rewritten:

23 **"§ 14-298. Gaming tables, illegal punchboards and slot machines to be destroyed by**
24 **police officers.**

25 All sheriffs and officers of police are hereby authorized and directed, on information
26 made to them on oath that any gaming table prohibited to be used by G.S. 14-289 through
27 G.S. 14-300, or any illegal punchboard or illegal slot machine-machine, or any video game
28 machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1, is in the possession or
29 use of any person within the limits of their jurisdiction, to destroy the same by every
30 means in their power; and they shall call to their aid all the good citizens of the county, if
31 necessary, to effect its destruction.

32 Notwithstanding the previous paragraph, if any video gaming machine as defined in
33 G.S. 14-306.1 is seized for a violation of G.S. 14-306.1, but was not owned by the
34 operator of the premises on which it was operated and the violation was not within the
35 knowledge of the owner of the machine, the machine shall not be destroyed but shall be
36 made available for pickup by the owner, and it is unlawful for such machine to be
37 returned to the same location where it was unlawfully operated."

38 Section 6. The Legislative Research Commission shall study the
39 implementation of this act and recommend any changes it deems necessary in order to
40 strengthen this act. Notwithstanding G.S. 120-30.11, the Commission may make its
41 report under this section to the 2001 General Assembly no later than April 1, 2001.

1 Section 7. The provisions of this act are severable. If any provision of this act
2 is held invalid by a court of competent jurisdiction, the invalidity does not affect other
3 provisions of this act that can be given effect without the invalid provision.

4 Section 8. This act becomes effective October 1, 2000, except that:

5 (1) G.S. 14-306.1, other than subsections (b) and (d), is effective when this
6 act becomes law.

7 (2) Sections 3 and 4 of this act become effective with respect to offenses
8 committed on or after October 1, 2000, except as to a violation of G.S.
9 14-306.1(a), they are effective when they become law.

10 (3) Sections 5 through 8 of this act are effective when they become law.

11 (4) The remainder of this act becomes effective October 1, 2000.