

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

6

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  
Sixth Edition Engrossed 7/10/00

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).

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       (c1) Age Requirement. – It shall be unlawful for any person under the age of 18  
26 years to play any video gaming machine defined in subsection (c) of this section. It shall  
27 be a Class 1 misdemeanor for the operator of the video gaming machine to knowingly  
28 allow a person under the age of 18 years to play any video gaming machine as proscribed  
29 by this subsection.

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

38       (e) Registration With Sheriff. – No later than October 1, 2000, the owner of any  
39 video game which is regulated by this section shall register the machine with the Sheriff  
40 of the county in which the machine is located using a standardized registration form  
41 supplied by the Sheriff. The registration form shall be signed under oath by the owner of  
42 the machine. A material false statement in the registration form shall subject the owner  
43 to forfeiture of the machine in addition to any other punishment imposed by law. At any

1 time that the video gaming machine is moved to a different location, the owner shall  
2 reregister the machine with the Sheriff prior to it being placed in operation. At a  
3 minimum, the registration form shall require that the registrant provide evidence of the  
4 date on which the machine was placed in operation, the serial number of the machine, the  
5 location of the facility at which the machine is operated, and the name of the owner of the  
6 facility at which the machine is operated. A valid State, county, or municipal license for  
7 that machine with the appropriate date is prima facie evidence that such machine was in  
8 operation on the date the license was issued. Each Sheriff shall report to the Joint  
9 Legislative Commission on Governmental Operations no later than November 1, 2000,  
10 on the total number of machines registered in that county, itemizing how many locations  
11 have one, two, or three machines.

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

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

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

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

33 Section 2. G.S. 105-164.29(d) is amended by inserting, after "G.S. 14-  
34 401.18"the following: "or any provision of G.S. 14-304 through G.S. 14-309,".

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

36 "**§ 14-309. Violation made ~~misdemeanor~~-criminal.**

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

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

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

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

5 "**§ 14-306. Slot machine or device defined.**

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

34 (b) The definition contained in ~~the first paragraph~~ subsection (a) of this section and  
35 G.S. 14-296, 14-301, 14-302, and 14-305 does not include coin-operated machines, video  
36 games, and devices used for amusement. Included within this exception are pinball  
37 machines, video games, and other mechanical devices that involve the use of skill or  
38 dexterity to make varying scores or tallies and which, in actual operation, limit to eight  
39 the number of accumulated credits or replays that may be played at one time and which  
40 may award free replays or paper coupons that may be exchanged for prizes or  
41 merchandise with a value not exceeding ten dollars (\$10.00), but may not be exchanged  
42 or converted to money.

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

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

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

16 "**§ 14-298. Gaming tables, illegal punchboards and slot machines to be destroyed by**  
17 **police officers.**

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

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

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

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

- 33 (1) G.S. 14-306.1, other than subsections (b) and (d), is effective when this  
34 act becomes law.
- 35 (2) Sections 3 and 4 of this act become effective with respect to offenses  
36 committed on or after October 1, 2000, except as to a violation of G.S.  
37 14-306.1(a), they are effective when they become law.
- 38 (3) Sections 5 through 8 of this act are effective when they become law.
- 39 (4) The remainder of this act becomes effective October 1, 2000.