

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SENATE BILL 1542
RATIFIED BILL

AN ACT TO BAN THE INTRODUCTION OF NEW VIDEO GAMING MACHINES INTO THIS STATE, TO LIMIT THE NUMBER OF VIDEO GAMING MACHINES PER LOCATION, TO PROVIDE FOR REGISTRATION OF MACHINES, INCREASING CRIMINAL PENALTIES FOR VIOLATION, PROVIDING FOR SUSPENSION OR REVOCATION OF LICENSES FOR VIOLATION, AND PROVIDING FOR SEIZURE OF UNLAWFUL VIDEO GAMING MACHINES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new section to read:

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

(a) Ban on New 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 (c) of this section unless either:

(1) Such machine was:

- a. Lawfully in operation, and available for play, within this State on or before June 30, 2000; and
- b. Listed in this State by January 31, 2000 for ad valorem taxation for the 2000-2001 tax year; or

(2) Such machine is within the scope of the exclusion provided in G.S. 14-306(b)(1).

(b) Prohibition of More Than Three 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 video gaming machines as defined in subsection (c).

(c) 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, 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. The enumeration of games in the list in this subsection does not authorize the possession or operation of such game if it is otherwise prohibited by law.

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), but does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

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

(c2) Hours of Operation. – It shall be unlawful to operate or allow the operation of any video gaming machine during the hours of 2:00 A.M. Sunday through 7:00 A.M. Monday.

(c3) Plain View. – Any video gaming machine available for operation shall be in plain view of persons visiting the premises.

(c4) Advertising Prohibited. – It is unlawful to advertise the operation of video gaming machines by use of on-premise or off-premise signs.

(d) Proximity to Other Locations Regulated; Permanent Building Required. – Each location where it is lawful to operate any video gaming machines as defined in G.S. 14-306.1(c) shall be at least 300 feet in any plane from any other location where such machines are operated. For the purpose of this section, a location is a permanent building having, or being within, a single exterior structure. Notwithstanding this subsection, two or more places where video gaming machines were lawfully operated under separate ownership on June 30, 2000, shall be considered to be separate locations more than 300 feet from each other, regardless of the distance from each other or whether they are located in the same building or edifice. Video gaming machines as defined in G.S. 14-306.1(c) may be operated only within permanent buildings.

(e) 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.

(e1) Report on Receipts and Prizes and Merchandise Awarded. – The owner of each machine or the agent of that owner shall report each calendar quarter to the Department of Revenue, under oath on a form provided by that Department, the total amount of gross receipts itemized by each machine, the number of machines at that location, and the total value of prizes and merchandise awarded to players of each machine at that location. The report shall be filed by the fifteenth day of the month after the quarter ends. Failure of the owner or agent to timely file the required report, or filing a report containing a material false statement shall subject the owner of the machine to seizure of the machine under G.S. 14-298 in addition to any other punishment imposed by law. Upon request of the Sheriff of the county, the Department of Revenue shall forward a copy of the report to the Sheriff of the county where the machines are located. The Department of Revenue shall compile the reports and make a summary report each quarter to the Joint Legislative Commission on Governmental Operations.

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

(g) 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.

(h) 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 (g) of this section.

(i) Exemption for Activities Under IGRA. – This section does not make any activities of a federally recognized Indian Tribe unlawful or against public policy, which are lawful for any federally recognized Indian Tribe under the Indian Gaming Regulatory Act, Public Law 100-497.

(j) No Local Preemption. – This section does not preempt any more restrictive ordinance lawfully adopted under Article 18 of Chapter 153A of the General Statutes or under Article 19 of Chapter 160A of the General Statutes.

(k) No person who has been convicted:

(1) Once under G.S. 14-309(a) may possess any video gaming machine as defined in G.S. 14-306.1 for a period of one year.

(2) Twice under G.S. 14-309(a) may possess any video gaming machine as defined in G.S. 14-306.1 for a period of two years.

(3) Three or more times under G.S. 14-309(a) may possess any video gaming machine.

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

Section 2. Chapter 14 of the General Statutes is amended by adding a new section to read:

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

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

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

"§ 14-309. Violation made ~~misdemeanor~~, criminal.

(a) Any person who violates any provision of G.S. 14-304 through 14-309 is guilty of a ~~Class 2 misdemeanor~~ Class 1 misdemeanor for the first offense, and is guilty of a Class I felony for a second offense and a Class H 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 involving the operation of five or more machines prohibited by that section is guilty of a Class G felony."

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

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

(a) Any machine, apparatus or device is a slot machine or device within the provisions of G.S. 14-296 through 14-309, if it is one that is adapted, or may be readily converted into one that is adapted, for use in such a way that, as a result of the insertion of any piece of money or coin or other object, such machine or device is caused to operate or may be operated in such manner that the user may receive or become entitled

to receive any piece of money, credit, allowance or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, or which may be exchanged for any money, credit, allowance or any thing of value, or which may be given in trade, or the user may secure additional chances or rights to use such machine, apparatus or device; or any other machine or device designed and manufactured primarily for use in connection with gambling and which machine or device is classified by the United States as requiring a federal gaming device tax stamp under applicable provisions of the Internal Revenue Code. This definition is intended to embrace all slot machines and similar devices except slot machines in which is kept any article to be purchased by depositing any coin or thing of value, and for which may be had any article of merchandise which makes the same return or returns of equal value each and every time it is operated, or any machine wherein may be seen any pictures or heard any music by depositing therein any coin or thing of value, or any slot weighing machine or any machine for making stencils by the use of contrivances operated by depositing in the machine any coin or thing of value, or any lock operated by slot wherein money or thing of value is to be deposited, where such slot machines make the same return or returns of equal value each and every time the same is operated and does not at any time it is operated offer the user or operator any additional money, credit, allowance, or thing of value, or check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for money, credit, allowance or thing of value or which may be given in trade or by which the user may secure additional chances or rights to use such machine, apparatus, or device, or in the playing of which the operator does not have a chance to make varying scores or tallies.

(b) ~~The definition contained in the first paragraph subsection (a) of this section and G.S. 14-296, 14-301, 14-302, and 14-305 does not include coin-operated machines, video games, pinball machines, and other computer, electronic or mechanical and devices that are operated and played for amusement, used for amusement. Included within this exception are pinball machines, video games, and other mechanical devices that involve the use of skill or dexterity to solve problems or tasks or to make varying scores or tallies and which, in that:~~

- (1) Do not emit, issue, display, print out, or otherwise record any receipt, paper, coupon, token, or other form of record which is capable of being redeemed, exchanged, or repurchased for cash, cash equivalent, or prizes, or award free replays; or
- (2) In actual operation, limit to eight the number of accumulated credits or replays that may be played at one time and which may award free replays or paper coupons that may be exchanged for prizes or merchandise with a value not exceeding ten dollars (\$10.00), but may not be exchanged or converted to money.

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

(d) The exception in subsection (b)(2) of this section does not apply to any machine that pays off in cash. The exemption in subsection (b)(2) of this section does not apply where the prizes, merchandise, credits, or replays are (i) repurchased for cash or rewarded by cash, (ii) exchanged for merchandise of a value of more than ten dollars (\$10.00), or (iii) where there is a cash payout of any kind, by the person operating or managing the machine or the premises, or any agent or employee of that person. It is also a criminal offense, punishable under G.S. 14-309, for the person making the unlawful payout to the player of the machine to violate this section, in addition to any other person whose conduct may be unlawful."

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

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

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

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

Section 6.1. The Department of Revenue may draw from collections under Article 4 of Chapter 105 of the General Statutes for the 2000-2001 fiscal year its actual costs of implementing G.S. 14-306.1(e1) as enacted by this act.

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

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

- (1) G.S. 14-306.1(a), (c), (e), (i), (j), and (l) are effective when this act becomes law. Section 4 of this act, other than subsections (c) and (d), are effective when this act becomes law. G.S. 14-306.1(h) becomes effective 30 days after this bill becomes law.
- (2) Section 3 of this act and G.S. 14-306(c) and (d) as added by Section 4 of this act become effective with respect to offenses committed on or after October 1, 2000, except as to a violation of G.S. 14-306.1(a), they are effective when they become law.
- (3) Sections 5 through 8 of this act are effective when they become law.
- (4) The first report under G.S. 14-306.1(e1) is for the first quarter of calendar year 2001, due April 15, 2001.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 2000