

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

3

SENATE BILL 912
Education/Higher Education Committee Substitute Adopted 5/25/05
House Committee Substitute Favorable 5/31/06

Short Title: Phase Out Video Poker/Except by Compact.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

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

9 The General Assembly of North Carolina enacts:

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

11 "(b) Prohibition of More Than ~~Three~~Two Existing Video Gaming Machines at
12 One Location. – It shall be unlawful for any person to operate, allow to be operated,
13 place into operation, or keep in that person's possession for the purpose of operation at
14 one location more than ~~three~~two video gaming machines as defined in subsection (c)."

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

17 "(b) Prohibition of More Than ~~Two~~One Existing Video Gaming ~~Machines~~
18 Machine at One Location. – It shall be unlawful for any person to operate, allow to be
19 operated, place into operation, or keep in that person's possession for the purpose of
20 operation at one location more than ~~two~~one video gaming ~~machines~~machine as defined
21 in subsection (c)."

22 **SECTION 3.** G.S. 14-306.1 is repealed.

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

25 "**§ 14-306.1A. Types of machines and devices prohibited by law; penalties.**

26 (a) Ban on Machines. – It shall be unlawful for any person to operate, allow to be
27 operated, place into operation, or keep in that person's possession for the purpose of
28 operation any video gaming machine as defined in subsection (b) of this section, except

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

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

9 (1) A video poker game or any other kind of video playing card game.

10 (2) A video bingo game.

11 (3) A video craps game.

12 (4) A video keno game.

13 (5) A video lotto game.

14 (6) Eight liner.

15 (7) Pot-of-gold.

16 (8) A video game based on or involving the random or chance matching of
17 different pictures, words, numbers, or symbols not dependent on the
18 skill or dexterity of the player.

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

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

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

30 (1) Assemblers, repairers, manufacturers, sellers, lessors, or transporters
31 of video gaming machines who assemble, repair, manufacture, sell,
32 lease, or transport them for use out-of-state, or

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

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

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

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

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

9 "**§ 14-306.2. Violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A a violation of the ABC laws.**

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

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

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

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

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

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

39 "~~(l) Exemption for Certain Machines. — This section shall not apply to~~
40 ~~assemblers, manufacturers, and transporters of video gaming machines who assemble,~~
41 ~~manufacture, and transport them for sale in another state as long as the machines, while~~
42 ~~located in this State, cannot be used to play the prohibited games, and does not apply to~~
43 ~~those who assemble, manufacture, and sell such machines for the use only by a federally~~

1 recognized Indian Tribe if such machines may be lawfully used on Indian Land under
2 the Indian Gaming Regulatory Act.

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

4 (1) Assemblers, repairers, manufacturers, sellers, lessors, or transporters
5 of video gaming machines who assemble, repair, manufacture, sell,
6 lease, or transport them for use out-of-state, or

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

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

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

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

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

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

23 "**§ 14-309. Violation made criminal.**

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

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

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