

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** HB 877 (Committee Substitute)

**SHORT TITLE:** Clarify Video Devices

**SPONSOR(S):** Representative Smith

**FISCAL IMPACT:**    **Expenditures:**    **Increase (X)**        **Decrease ( )**  
                         **Revenues:**            **Increase ( )**        **Decrease ( )**  
                         **No Impact ( )**  
                         **No Estimate Available ( )**

**FUND AFFECTED:**    **General Fund (X)**    **Highway Fund ( )**    **Local Fund (X)**  
                         **Other Fund (X)** (Indigent Persons Attorney Fee Fund)

**BILL SUMMARY:** Amends G.S. 14-306 (definition of slot machine) to restate the exception in the final paragraph thereof as encompassing coin-operated machines, video games, and devices that award free replays or paper coupons that may be exchanged for prizes with value up to \$10.

**HOUSE COMMITTEE SUBSTITUTE:** Revises G.S. 14-306 to limit free replays to eight, amends G.S. 14-303 and G.S. 14-309 to make violation of G.S. 14-301, 14-302, and 14-304 through 14-309 regarding slot machines and gambling devices a Class J felony (was misdemeanor). Changes effective date to Dec. 1, 1993.

**EFFECTIVE DATE:** December 1, 1993.

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Judicial Department; Department of Correction

JUDICIAL DEPARTMENT

FISCAL IMPACT

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
<b>EXPENDITURES *</b>	\$5,471	\$9,378	\$9,378	\$9,378	\$9,378
<b>GENERAL FUND</b>	4,654	7,978	7,978	7,978	7,978
<b>REVENUES/RECEIPTS</b>	0	0	0	0	0
<b>RECURRING</b>					
<b>NON-RECURRING</b>					

\* Recurring expenditures do not include salary or inflationary increases.

**POSITIONS:** No new positions.

**ASSUMPTIONS AND METHODOLOGY:** The above expenditures have been estimated based on the number of 1992 charges filed for offenses that are currently classified as misdemeanors under G.S. 14-301, 14-302, 14-304, and 14-305. The proposed legislation would elevate an estimated 422 charges from misdemeanors to Class J felonies. By increasing the the number of felony filings for what are now misdemeanor offenses, additional costs are estimated in the following areas.

Assuming that the 422 charges involved 211 offenders (2 charges per defendant), it is estimated that 116 defendants would plead guilty and 6 would request a trial. For those cases which are plead, it is estimated that 25% or 29 of the defendants would be indigent and would require court appointed counsel. It is further estimated that of the 29 indigent defendants, 66% or 19 defendants would receive services from court appointed private counsel as opposed to a public defender. Cost associated with providing 1 hour of legal service (at the rate of \$50 per hour) to 19 defendants is \$950.

For the 6 defendants pleading not guilty and receiving a trial, it is estimated that again 25% or roughly 2 defendants would be indigent and appointed counsel. Of these 2 defendants, it is estimated that 1 would receive court appointed private counsel and 1 would be represented by a public defender. Each trial is estimated to involve 1 court day or 6 hours. The single trial where the defendant is represented by a public defendant is estimated to cost \$1,518. The five remaining trials involving 4 defendants with private retained council and 1 defendant represented by private appointed council are estimated to cost \$6,460 not including an additional \$450 for 9 hours of service (6 court hours and 3 hours for pretrial preparation) by the private appointed council. All together, costs associated with 6 additional felony trials total \$8,428. Added to the above mentioned cost of \$950 for indigent defendants pleading guilty, it is estimated that the proposed legislation would result in an additional expenditure of \$9,378 per year by the Judicial Department.

**DEPARTMENT OF CORRECTION**

**FISCAL IMPACT**

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u>
<b>EXPENDITURES *</b>	\$31,938	\$54,750	\$54,750	\$54,750	\$5
<b>RECURRING</b>	31,938	54,750	54,750	54,750	54
<b>NON-RECURR.</b>	0	0	0	0	0
<b>REVENUES/RECEIPTS</b>	0	0	0	0	0
<b>RECURRING</b>					
<b>NON-RECURRING</b>					

\* Recurring expenditures do not include salary or inflationary increases.

**POSITIONS:** N/A

**ASSUMPTIONS AND METHODOLOGY:** The above cost estimates are calculated from the projected increase in jail populations that would result upon ratification of this bill. The estimated expenditures are operating costs to house additional inmates within local jail facilities. Thus, expenditures are local costs. Projections apply to all relevant offenses committed on or after December 1, 1993.

**Added Jail Population:** The number of additional beds that would be required by local jails to house offenders sentenced under the proposed legislation was estimated by Rob Lubitz, Executive Director of the N.C. Sentencing and Policy Advisory Commission using the Commission's correctional population simulation model. (See Appendix IV of the Commission's "1993 Report to the General Assembly" for further explanation.) The projected increase in jail population is based on the following assumptions:

- 1) The percentage of offenders convicted under the current misdemeanor statutes (G.S. 14-301, 14-302, 14-304, and 14-305) who receive an active sentence would be similar to the percentage of offenders who would receive an active sentence under the proposed legislation (i.e., 19%).
- 2) Offenders receiving an active sentence under the proposed legislation would serve approximately 5 months in a local jail (average sentence length served by current Class J felons).
- 3) Of 152 misdemeanor convictions in 1992 (i.e., convictions under G.S. 14-301, 14-302, 14-304 and 14-305), there would be 129 convicted offenders. (Number of actual defendants estimated from 1991 data that identified 85% of all relevant convictions being equivalent to an actual defendant.)

Based on the above assumptions, the Commission calculated the total number of jail beds projected under current sentencing laws and practices and then projected the expected jail population under the elevated sentencing laws prescribed in this bill. It is estimated that 5 additional jail beds would be needed at any given time as a result of the proposed legislation.

A representative of the N.C. County Commissioners Association notes that the average cost per jail inmate per day is between \$28 and \$32 in most counties. For the purpose of this fiscal note, costs to incarcerate five additional jail inmates per day are calculated by multiplying 5 inmates x \$30 per day operating costs x 365 days. Cost estimates for FY 93-94 are based on the 7 months from the bill's December 1 effective date.

**SOURCES OF DATA:** Judicial Department - Information Services Division, Administrative Office of the Courts; N.C. Sentencing Policy and Advisory Commission; N.C. County Commissioners Association

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION**

**733-4910**

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