



intervening stop in a second state, and then return to the same or another port in the first state as specified in 15 U.S.C. 1175(b)(2), commonly referred to as the Johnson Act Amendments of 1992; and

Whereas, it is the intent of the General Assembly to prohibit "gambling cruises to nowhere" in this State and to regulate, to the extent possible under federal law, all gambling cruises that originate and terminate in this State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 37 of Chapter 14 of the General Statutes is amended by adding a new Part to read:

**"PART 3. CASINO BOATS.**

**"§ 14-309.20. Short title.**

This Part may be referred to as the 'Gambling Cruise Prohibition and Regulation Act.'

**"§ 14-309.21. Casino boats and gambling devices; prohibited.**

(a) It shall be unlawful to manufacture, recondition, repair, sell, transport, possess, or use any slot machine, gaming table, illegal punchboard, or gambling device as defined in this Article or 15 U.S.C. 1171 on any vessel, boat, ship, watercraft, or barge that embarks from any point within this State and disembarks at the same or another point within this State without making an intervening stop within the boundaries of another state, possession of the United States, or a foreign country.

For purposes of this subsection an 'intervening stop' shall be when a vessel, boat, ship, watercraft, or barge does all of the following:

(1) Docks at a port.

(2) Remains continuously at that port for at least six hours.

(3) Allows passengers to disembark the vessel for sightseeing, shopping, or other similar tourism-related acts at that port.

(b) It shall be unlawful to manage, supervise, control, operate, or own any vessel or craft during which time the person intentionally causes or knowingly permits a violation of subsection (a) of this section.

(c) It shall be unlawful to solicit, entice, induce, persuade, or procure, or to aid in soliciting, enticing, inducing, persuading, or procuring any person to visit or embark on any vessel, boat, ship, watercraft, or barge for any purpose that constitutes a violation of this Article.

(d) This section shall not apply to possession or transportation of slot machines, gaming tables, illegal punchboards, or gambling devices on United States-flagged or foreign-flagged vessels during travel from a foreign nation or another state or possession of the United States up to the first point of entry into North Carolina waters or during travel to a foreign nation or another state or possession of the United States from the point of departure from North Carolina waters, provided that nothing herein shall preclude prosecution for any other offense under this Article.

**"§ 14-309.22. Penalty for violation.**

(a) A person who violates G.S. 14-309.21 shall be guilty of a Class A1 misdemeanor and shall be fined up to five thousand dollars (\$5,000) and imprisoned in the discretion of the court.

1       (b) Alcohol law enforcement officers and any law enforcement officer with subject  
2 matter and territorial jurisdiction, who have probable cause to believe any slot machine,  
3 gaming table, illegal punchboard, or gambling device is being manufactured,  
4 reconditioned, repaired, sold, transported, possessed, or used in violation of G.S. 12-  
5 309.21, may take any of the following actions:

6           (1) Seize the slot machine, gaming table, illegal punchboard, or gambling  
7 device.

8           (2) Seize any monies, other property, or thing of value used in conjunction  
9 with or derived from the unlawful use of such illegal device.

10          (3) Seize any vessel, boat, ship, watercraft, or barge upon which an illegal  
11 slot machine, gaming table, illegal punchboard, or other gambling  
12 device is found.

13       (c) Upon conviction, a court of competent jurisdiction shall enter an order  
14 directing the seizure, forfeiture, and sale of any vessel, boat, ship, watercraft, or barge  
15 along with all of its gear, engines, tackle, and all other nautical, navigation, and safety  
16 equipment, furniture and personal property of any description. Any means of conveyance  
17 to and from an illegally used vessel, boat, ship, watercraft, or barge shall also be ordered  
18 seized, forfeited, and sold. The proceeds of a sale pursuant to this subsection shall be  
19 applied, in order, to the costs of seizure, storage, and sale, with the balance paid to the  
20 school fund in the county in which the property is seized.

21 **"§ 14-309.23. Authority of division of alcohol law enforcement officers.**

22       (a) Authority. – In the case of any tour boat or vessel, boat, ship, watercraft, or  
23 barge possessing an alcoholic beverage permit pursuant to Chapter 18B of the General  
24 Statutes, alcohol law enforcement agents shall, at any time it reasonably appears that  
25 someone is on board, have authority to board and investigate the operation of the craft to  
26 ensure compliance with the provisions of the ABC law and this Article to include  
27 viewing the entire premises, and examining any books, logs, and records of the permittee.

28       (b) Interference with inspection. – Refusal by a permittee or by any employee of a  
29 permittee to permit an agent to board to make an inspection authorized by subsection (a)  
30 of this section shall be cause for revocation, suspension, or other action against the  
31 permit of the permittee as provided in G.S. 18B-104.

32       (c) It shall be a Class 2 misdemeanor for any person to resist or obstruct an agent  
33 attempting to make a lawful inspection under this section.

34 **"§ 14-309.24. Regulation of casino boats operating pursuant to federal law.**

35       (a) The operator of any vessel, boat, ship, watercraft, or barge, the operation of  
36 which would be illegal in this State except for the exclusions provided in 15 U.S.C.  
37 1175(b)(2), shall comply with all of the following:

38           (1) The operator shall comply with the applicable provisions of Chapter 105  
39 of the General Statutes including paying a privilege tax in accordance  
40 with G.S. 105-40.1 and withholding and reporting gambling winnings in  
41 accordance with G.S. 105-163.3A.

42           (2) If alcoholic beverages are to be sold to the passengers, the operator shall  
43 obtain a 'casino boat' permit as provided for in G.S. 18B-1006(n).

1           (3)    The operator shall, while operating the vessel within North Carolina  
2           waters, comply with the Safety of Life at Sea (SOLAS) standards and  
3           requirements normally applicable in international waters."

4           Section 2. G.S. 18B-1006 is amended by adding a new subsection:

5           "(n) Casino boats. – The Commission may issue a 'casino boat' permit to a boat that  
6           is operated pursuant to G.S. 14-309.24 if the boat meets all of the following conditions:

7           (1)    The boat shall serve meals on each voyage and shall have a dining area  
8           with seating for at least 36 people.

9           (2)    The boat's gross receipts from food and nonalcoholic beverages shall be  
10           greater than its gross receipts from alcoholic beverages.

11           (3)    A boat holding a 'casino boat' permit may also hold the permits listed in  
12           G.S. 18B-1001(1), (3), (5), and (10), but no off-premises sales may be  
13           made pursuant to those permits.

14           (4)    A boat shall have a home port in an area where issuance of all of the  
15           permits listed in subdivision (3) of this subsection are legal, and all  
16           passengers shall enter the boat at the home port or at other ports listed  
17           on a preannounced itinerary. The boat's permits are valid only during  
18           voyages that leave and return to the boat's home port, and apply only if  
19           the boat docks in areas within this State where sales are legal, except in  
20           an emergency.

21           (5)    Liquor purchased for resale in mixed beverages may be purchased only  
22           from the local board for the jurisdiction of the boat's home port.

23           (6)    The permit fees are paid for the applicable permits listed in subdivision  
24           (3) of this section and for a 'casino boat' permit.

25           (7)    The requirements of all other applicable provisions of this Chapter are  
26           met."

27           Section 3. G.S. 18B-902(d) reads as rewritten:

28           "(d) Fees. – An application for an ABC permit shall be accompanied by payment of  
29           the following application fee:

30           (1)    On-premises malt beverage permit – \$400.00.

31           (2)    Off-premises malt beverage permit – \$400.00.

32           (3)    On-premises unfortified wine permit – \$400.00.

33           (4)    Off-premises unfortified wine permit – \$400.00.

34           (5)    On-premises fortified wine permit – \$400.00.

35           (6)    Off-premises fortified wine permit – \$400.00.

36           (7)    Brown-bagging permit – \$400.00, unless the application is for a  
37           restaurant seating less than 50, in which case the fee shall be \$200.00.

38           (8)    Special occasion permit – \$400.00.

39           (9)    Limited special occasion permit – \$50.00.

40           (10)   Mixed beverages permit – \$1,000.

41           (11)   Culinary permit – \$200.00.

42           (12)   Unfortified winery permit – \$300.00.

43           (13)   Fortified winery permit – \$300.00.

- 1 (14) Limited winery permit – \$300.00.  
2 (15) Brewery permit – \$300.00.  
3 (16) Distillery permit – \$300.00.  
4 (17) Fuel alcohol permit – \$100.00.  
5 (18) Wine importer permit – \$300.00.  
6 (19) Wine wholesaler permit – \$300.00.  
7 (20) Malt beverage importer permit – \$300.00.  
8 (21) Malt beverage wholesaler permit – \$300.00.  
9 (22) Bottler permit – \$300.00.  
10 (23) Salesman permit – \$100.00.  
11 (24) Vendor representative permit – \$50.00.  
12 (25) Nonresident malt beverage vendor permit – \$100.00.  
13 (26) Nonresident wine vendor permit – \$100.00.  
14 (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.  
15 (28) Winery special event permit – \$200.00.  
16 (29) Mixed beverages catering permit – \$200.00.  
17 (30) Guest room cabinet permit – \$1,000.  
18 (31) Liquor importer/bottler permit – \$500.00.  
19 (32) Cider and vinegar manufacturer permit – \$200.00.  
20 (33) Brew on premises permit – \$400.00.  
21 (34) Casino boat permit – \$10,000."

22 Section 4. G.S. 105-228.90(b) is amended by adding a new subdivision to  
23 read:

24 "(4) Gambling boat voyage. – A voyage of a commercial vessel transporting  
25 passengers engaged in gambling aboard the vessel, during which  
26 passengers embark in this State and disembark only in this State or a  
27 contiguous state."

28 Section 5. Article 2 of Chapter 105 of the General Statutes is amended by  
29 adding a new section to read:

30 "**§ 105-40.1. Gambling boat voyages.**

31 A person engaged in the business of operating gambling boat voyages must pay a tax  
32 on the business at the rate of six dollars (\$6.00) for each passenger who embarks on a  
33 gambling boat voyage in this State. Within the first 10 days of each month, the taxpayer  
34 must report to the Secretary the number of passengers who embarked on the taxpayer's  
35 gambling boat voyages during the previous month and must pay the tax at the time the  
36 report is due."

37 Section 6. G.S. 105-163.1 is amended by adding a new subdivision to read:

38 "(5a) Gambling boat operator. – A person engaged in the business of  
39 operating gambling boat voyages."

40 Section 7. G.S. 105-163.1(14) reads as rewritten:

41 "(14) Withholding agent. – An ~~employer~~ employer, a gambling boat operator,  
42 or a payer."

1 Section 8. Article 4A of Chapter 105 of the General Statutes is amended by  
2 adding a new section to read:

3 **"§ 105-163.3A. Gambling boat operators must withhold taxes.**

4 (a) Requirement. – Every gambling boat operator who pays a resident of this State  
5 more than six hundred dollars (\$600.00) in gambling winnings during a gambling boat  
6 voyage must deduct and withhold from the winnings paid to the resident the State income  
7 taxes due on the winnings as provided in this section. The amount of taxes to be withheld  
8 is seven percent (7%) of the winnings paid to the resident. The taxes a gambling boat  
9 operator withholds are held in trust for the Secretary.

10 (b) Returns; due date. – A gambling boat operator must file a return with the  
11 Secretary on a form prepared by the Secretary and must provide any information required  
12 by the Secretary. The return is due and the withheld taxes are payable by the last day of  
13 the first month after the end of each calendar quarter during which the gambling boat  
14 operator pays gambling winnings to a resident of this State. The Secretary may extend  
15 the time for filing the return or paying the tax as provided in G.S. 105-263.

16 (c) Annual statement. – A gambling boat operator required to deduct and withhold  
17 from a resident's gambling winnings under this section must furnish to the resident  
18 duplicate copies of a written information statement. The statement is due by January 31  
19 following the calendar year and must show the following:

20 (1) The gambling boat operator's name, address, and taxpayer identification  
21 number.

22 (2) The resident's name, address, and taxpayer identification number.

23 (3) The total amount of gambling winnings paid during the calendar year.

24 (4) The total amount deducted and withheld under this section during the  
25 calendar year.

26 (5) Any other information required by the Secretary.

27 (d) Report to Secretary. – Each gambling boat operator must file with the  
28 Secretary an annual report that compiles the information contained in each of the  
29 operator's statements to residents and any other information required by the Secretary.  
30 This report is due on the date prescribed by the Secretary and is in lieu of the information  
31 report required by G.S. 105-154.

32 (e) Records. – If a gambling boat operator does not withhold from any gambling  
33 winnings paid to an individual, the operator must obtain from the individual  
34 documentation proving that he or she is not a resident of this State. The operator must  
35 retain this information with its records."

36 Section 9. G.S. 105-163.9 reads as rewritten:

37 **"§ 105-163.9. Refund of overpayment to withholding agent.**

38 A withholding agent who pays the Secretary more under this Article than the Article  
39 requires the agent to pay may obtain a refund of the overpayment by filing an application  
40 for a refund with the Secretary. No refund is allowed, however, if the withholding agent  
41 withheld the amount of the overpayment from the ~~wages~~ wages, winnings, or  
42 compensation of the agent's employees, passengers, or contractors. A

1 withholding agent must file an application for a refund within the time period set in G.S.  
2 105-266. Interest accrues on a refund as provided in G.S. 105-266."

3 Section 10. G.S. 105-163.10 reads as rewritten:

4 **"§ 105-163.10. Withheld amounts credited to taxpayer for calendar year.**

5 The amount deducted and withheld under this Article during any calendar year from  
6 the ~~wages~~ ~~wages, winnings,~~ or compensation of an individual ~~shall be~~ is allowed as a  
7 credit to that individual against the tax imposed by Article 4 of this Chapter for taxable  
8 years beginning in that calendar year. The amount deducted and withheld under this  
9 Article during any calendar year from the compensation of a nonresident entity ~~shall be~~ is  
10 allowed as a credit to that entity against the tax imposed by Article 4 of this Chapter for  
11 taxable years beginning in that calendar year. If the nonresident entity is a pass-through  
12 entity, the entity shall pass through and allocate to each owner the owner's share of the  
13 credit.

14 If more than one taxable year begins in the calendar year during which the  
15 withholding occurred, the amount ~~shall be~~ is allowed as a credit against the tax for the last  
16 taxable year so beginning. To obtain the credit allowed in this section, the individual or  
17 nonresident entity must file with the Secretary one copy of the withholding statement  
18 required by G.S. ~~105-163.3~~ or G.S. 105-163.3, 105-163.3A, or 105-163.7 and any other  
19 information the Secretary requires."

20 Section 11. This act is effective when it becomes law. Sections 4 through 10  
21 of this act become effective on the first day of the third calendar month after this act  
22 becomes law.