



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.

(e) Nothing contained in this section shall preclude prosecution for any other offense under this Article or for the use of any slot machine, gaming table, illegal punchboard, or gambling device on any vessel while docked within the territorial waters of this State.

1 **"§ 14-309.22. Penalty for violation.**

2 (a) A person who violates G.S. 14-309.21 shall be guilty of a Class A1  
3 misdemeanor.

4 (b) Alcohol law enforcement officers and any law enforcement officer with subject  
5 matter and territorial jurisdiction, who have probable cause to believe any slot machine,  
6 gaming table, illegal punchboard, or gambling device is being manufactured,  
7 reconditioned, repaired, sold, transported, possessed, or used in violation of G.S. 14-  
8 309.21, may take any of the following actions:

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

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

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

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

24 **"§ 14-309.23. Authority of alcohol law enforcement division and Alcoholic Beverage**  
25 **Control Commission.**

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

33 (b) Interference with inspection. – Refusal by a permittee or by any employee of a  
34 permittee to permit an alcohol law enforcement agent or employee of the Alcoholic  
35 Beverage Control Commission to board to make an inspection authorized by subsection  
36 (a) of this section shall be cause for revocation, suspension, or other action against the  
37 permit of the permittee as provided in G.S. 18B-104.

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

40 **"§ 14-309.24. Regulation of casino boats operating pursuant to federal law.**

41 (a) The operator of any vessel, boat, ship, watercraft, or barge, the operation of  
42 which would be illegal in this State except for the exclusions provided in 15 U.S.C.  
43 1175(b)(2), shall comply with all of the following:

- 1           (1)    The operator shall comply with the applicable provisions of Chapter 105  
2           of the General Statutes including paying a privilege tax in accordance  
3           with G.S. 105-40.1 and withholding and reporting gambling winnings in  
4           accordance with G.S. 105-163.3A.
- 5           (2)    If alcoholic beverages are to be sold to the passengers, the operator shall  
6           obtain a 'casino boat' permit as provided for in G.S. 18B-1006(n).
- 7           (3)    The operator shall, while operating the vessel within North Carolina  
8           waters, comply with the Safety of Life at Sea (SOLAS) standards and  
9           requirements normally applicable in international waters."

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

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

- 13           (1)    The boat shall serve meals on each voyage and shall have a dining area  
14           with seating for at least 36 people.
- 15           (2)    The boat's gross receipts from food and nonalcoholic beverages shall be  
16           greater than its gross receipts from alcoholic beverages.
- 17           (3)    A boat holding a 'casino boat' permit may also hold the permits listed in  
18           G.S. 18B-1001(1), (3), (5), and (10), but no off-premises sales may be  
19           made pursuant to those permits.
- 20           (4)    A boat shall have a home port in an area where issuance of all of the  
21           permits listed in subdivision (3) of this subsection are legal, and all  
22           passengers shall enter the boat at the home port or at other ports listed  
23           on a preannounced itinerary. The boat's permits are valid only during  
24           voyages that leave and return to the boat's home port, and apply only if  
25           the boat docks in areas within this State where sales are legal, except in  
26           an emergency.
- 27           (5)    Liquor purchased for resale in mixed beverages may be purchased only  
28           from the local board for the jurisdiction of the boat's home port.
- 29           (6)    The permit fees are paid for the applicable permits listed in subdivision  
30           (3) of this section and for a 'casino boat' permit.
- 31           (7)    The permittee shall comply with all Commission rules regarding record  
32           keeping and reporting for tour boats.
- 33           (8)    The requirements of all other applicable provisions of this Chapter are  
34           met."

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

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

- 38           (1)    On-premises malt beverage permit – \$400.00.
- 39           (2)    Off-premises malt beverage permit – \$400.00.
- 40           (3)    On-premises unfortified wine permit – \$400.00.
- 41           (4)    Off-premises unfortified wine permit – \$400.00.
- 42           (5)    On-premises fortified wine permit – \$400.00.
- 43           (6)    Off-premises fortified wine permit – \$400.00.

- 1 (7) Brown-bagging permit – \$400.00, unless the application is for a  
2 restaurant seating less than 50, in which case the fee shall be \$200.00.  
3 (8) Special occasion permit – \$400.00.  
4 (9) Limited special occasion permit – \$50.00.  
5 (10) Mixed beverages permit – \$1,000.  
6 (11) Culinary permit – \$200.00.  
7 (12) Unfortified winery permit – \$300.00.  
8 (13) Fortified winery permit – \$300.00.  
9 (14) Limited winery permit – \$300.00.  
10 (15) Brewery permit – \$300.00.  
11 (16) Distillery permit – \$300.00.  
12 (17) Fuel alcohol permit – \$100.00.  
13 (18) Wine importer permit – \$300.00.  
14 (19) Wine wholesaler permit – \$300.00.  
15 (20) Malt beverage importer permit – \$300.00.  
16 (21) Malt beverage wholesaler permit – \$300.00.  
17 (22) Bottler permit – \$300.00.  
18 (23) Salesman permit – \$100.00.  
19 (24) Vendor representative permit – \$50.00.  
20 (25) Nonresident malt beverage vendor permit – \$100.00.  
21 (26) Nonresident wine vendor permit – \$100.00.  
22 (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.  
23 (28) Winery special event permit – \$200.00.  
24 (29) Mixed beverages catering permit – \$200.00.  
25 (30) Guest room cabinet permit – \$1,000.  
26 (31) Liquor importer/bottler permit – \$500.00.  
27 (32) Cider and vinegar manufacturer permit – \$200.00.  
28 (33) Brew on premises permit – \$400.00.  
29 (34) Casino boat permit – \$10,000."

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

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

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

38 "**§ 105-40.1. Gambling boat voyages.**

39 A person engaged in the business of operating gambling boat voyages must pay a tax  
40 on the business at the rate of six dollars (\$6.00) for each passenger who embarks on a  
41 gambling boat voyage in this State. Within the first 10 days of each month, the taxpayer  
42 must report to the Secretary the number of passengers who embarked on the taxpayer's

1 gambling boat voyages during the previous month and must pay the tax at the time the  
2 report is due."

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

4 "(5a) Gambling boat operator. – A person engaged in the business of  
5 operating gambling boat voyages."

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

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

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

11 **"§ 105-163.3A. Gambling boat operators must withhold taxes.**

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

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

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

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

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

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

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

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

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

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

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

2 **"§ 105-163.9. Refund of overpayment to withholding agent.**

3 A withholding agent who pays the Secretary more under this Article than the Article  
4 requires the agent to pay may obtain a refund of the overpayment by filing an application  
5 for a refund with the Secretary. No refund is allowed, however, if the withholding agent  
6 withheld the amount of the overpayment from the ~~wages~~wages, winnings, or  
7 compensation of the agent's employees, passengers, or contractors. A  
8 withholding agent must file an application for a refund within the time period set in G.S.  
9 105-266. Interest accrues on a refund as provided in G.S. 105-266."

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

11 **"§ 105-163.10. Withheld amounts credited to taxpayer for calendar year.**

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

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

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