

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE BILL 1763

Short Title: Increase Regulation of Amusement Devices. (Public)

Sponsors: Representatives Culpepper, Harrell, G. Allen, Owens (Primary Sponsors);  
and Womble.

Referred to: Rules, Calendar, and Operations of the House.

May 31, 2004

A BILL TO BE ENTITLED  
AN ACT TO INCREASE REGULATION OF THE POSSESSION OR OPERATION  
OF VIDEO GAMING MACHINES AND PROVIDING FUNDING FOR SUCH  
REGULATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 14-306(c) reads as rewritten:

"(c) Any video machine, the operation of which is made lawful by ~~subsection~~  
subdivision (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 for  
the location where video gaming machines are operating to pay more than that which is  
allowed by law. Within 60 days after the effective date of this sentence, all machines  
referred to in subdivision (b)(2) of this section will be equipped with a hand count  
feature to permit the reconciliation of the number of plays and the number of paper  
coupons issued. In addition, if the machine has an attract chip which allows  
programming, the static display shall contain the same ~~message~~ message regarding the  
illegality of payments in excess of those allowed by law."

**SECTION 2.** G.S. 14-306.1 reads as rewritten:

**"§ 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

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

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

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

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

11 (2) A video bingo game.

12 (3) A video craps game.

13 (4) A video keno game.

14 (5) A video lotto game.

15 (6) Eight liner.

16 (7) Pot-of-gold.

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

20 For the purpose of this section, a video gaming machine is a video machine which  
21 requires deposit of any coin, token, or use of any credit card, debit card, or any other  
22 method that requires payment to activate play of any of the games listed in this  
23 subsection. The enumeration of games in the list in this subsection does not authorize  
24 the possession or operation of such game if it is otherwise prohibited by law.

25 For the purpose of this section, a video gaming machine includes those that are  
26 within the scope of the exclusion provided in G.S. 14-306(b)(2), but does not include  
27 those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

28 (d) Age Requirement. – It shall be an infraction for any person under the age of  
29 18 years to play any video gaming machine defined in subsection (c) of this section. It  
30 shall be unlawful for the operator of the video gaming machine to knowingly allow a  
31 person under the age of 18 years to play any video gaming machine as proscribed by  
32 this subsection.

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

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

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

40 (g1) Each video gaming machine shall have a serial number which shall be  
41 permanently affixed to the machine. No machine operated under this section shall  
42 display the words "jackpot," "casino," or "Las Vegas," either with signage or  
43 electronically nor shall such machine emit those words in an audible fashion.

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

11 (i) Registration With ~~Sheriff~~Alcohol Law Enforcement (A.L.E.). – No later than  
12 ~~October 1, 2000, October 1, 2004,~~ the owner of any video ~~game~~gaming machine which  
13 is regulated by this section ~~shall register the machine with the Sheriff of the county in~~  
14 ~~which the machine is located~~and which was previously eligible to be registered with the  
15 appropriate Sheriff in calendar year 2000 under the previous version of this subsection  
16 shall register all machines with Alcohol Law Enforcement using a standardized  
17 registration form or online process supplied by the SheriffA.L.E. Such registration shall  
18 contain the name and address of the machine owner, the serial number of all machines  
19 owned by said machine owner, the name and address of the location of all such  
20 machines at the time of registration, as well as the name of the owner of the location of  
21 all machines in operation. Any change in location of registered machines for  
22 warehousing or temporarily for repair of nonoperational machines, or to another  
23 business location for operation must be reported to A.L.E. within five days of such  
24 relocation and before such machines are operational. A.L.E. shall be allowed by all such  
25 businesses where machines are operated or housed to enter the premises to inspect its  
26 video gaming machines.

27 The registration form shall be signed under oath by the owner of the machine. A  
28 material false statement in the registration form shall subject the owner to seizure of the  
29 machine under G.S. 14-298 in addition to any other punishment imposed by law. ~~At any~~  
30 ~~time that the video gaming machine is moved to a different location, the owner shall~~  
31 ~~reregister the machine with the Sheriff prior to its being placed in operation. At a~~  
32 ~~minimum, the registration form shall require that the registrant provide evidence of the~~  
33 ~~date on which the machine was placed in operation, the serial number of the machine,~~  
34 ~~the location of the facility at which the machine is operated, and the name of the owner~~  
35 ~~of the facility at which the machine is operated. Each Sheriff shall report to the Joint~~  
36 ~~Legislative Commission on Governmental Operations no later than November 1, 2000,~~  
37 ~~on the total number of machines registered in that county, itemizing how many locations~~  
38 ~~have one, two, or three machines.~~

39 (j) ~~Report on Receipts and Prizes and Merchandise Awarded.~~—~~The owner of~~  
40 ~~each machine or the agent of that owner shall report each calendar quarter to the~~  
41 ~~Department of Revenue, under oath on a form provided by that Department, the total~~  
42 ~~amount of gross receipts itemized by each machine, the number of machines at that~~  
43 ~~location, and the total value of prizes and merchandise awarded to players of each~~  
44 ~~machine at that location. The report shall be filed by the fifteenth day of the month after~~

1 the quarter ends. Failure of the owner or agent to timely file the required report, or filing  
2 a report containing a material false statement shall subject the owner of the machine to  
3 seizure of the machine under G.S. 14-298 in addition to any other punishment imposed  
4 by law. Upon request of the Sheriff of the county, the Department of Revenue shall  
5 forward a copy of the report to the Sheriff of the county where the machines are located.  
6 The Department of Revenue shall compile the reports and make a summary report each  
7 quarter to the Joint Legislative Commission on Governmental Operations.

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

16 (l) Exemption for Certain Machines. — This section shall not apply to  
17 assemblers, manufacturers, and transporters of video gaming machines who assemble,  
18 manufacture, and transport them for sale in another state as long as the machines, while  
19 located in this State, cannot be used to play the prohibited games, and does not apply to  
20 those who assemble, manufacture, and sell such machines for the use only by a federally  
21 recognized Indian Tribe if such machines may be lawfully used on Indian Land under  
22 the Indian Gaming Regulatory Act.

23 (m) ~~Ban on Warehousing.~~ Warehousing Permitted. — It is ~~unlawful~~ lawful to  
24 warehouse any number of video gaming machine ~~except in conjunction with the~~  
25 ~~permitted assembly, manufacture, and transportation of such machines~~ which are lawful  
26 ~~under subsection (l) of this section.~~ section and which are not in operation.

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

31 (o) ~~No Local Preemption.~~ — This section ~~does not preempt~~ preempts any more  
32 restrictive ordinance lawfully adopted under Article 18 of Chapter 153A of the General  
33 Statutes or under Article 19 of Chapter 160A of the General Statutes.

34 (p) No person who has been convicted:

- 35 (1) Once under G.S. 14-309(a) or (b) may own or possess any video  
36 gaming machine as defined in G.S. 14-306.1 for a period of one year.
- 37 (2) Twice under G.S. 14-309(a) or (b) may own or possess any video  
38 gaming machine as defined in G.S. 14-306.1 for a period of two years.
- 39 (3) Three or more times under G.S. 14-309(a) or (b) may own or possess  
40 any video gaming machine.

41 (q) Not Legalizing Unlawful Activity. — This section does not make lawful any  
42 activity which is currently unlawful."

43 **SECTION 3.** G.S. 14-298 reads as rewritten:

1 ~~"§ 14-298. Gaming tables, illegal punchboards, slot machines, and prohibited~~  
2 ~~video game machines to be destroyed by police officers.~~Seizure of illegal  
3 gaming items.

4 All sheriffs and officers of police are hereby authorized and directed, on information  
5 made to them on oath Upon a determination that probable cause exists to believe that  
6 any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal  
7 punchboard or illegal slot machine, or any video game machine prohibited to be used by  
8 G.S. 14-306 or G.S. 14-306.1, is in the illegal possession or use of any person within the  
9 limits of their jurisdiction, all A.L.E. and other law enforcement officers are authorized  
10 to seize the items to destroy the same by every means in their power; and they shall call  
11 to their aid all the good citizens of the county, if necessary, to effect its destruction.Any  
12 law enforcement agency in possession of that item shall retain the item pending a  
13 disposition order from a district or superior court judge. Upon application by the law  
14 enforcement agency, district attorney, or owner, and after notice and opportunity to be  
15 heard by all parties, if the court determines that the item is unlawful to possess by its  
16 owner, it shall enter an order releasing the item to the law enforcement agency for  
17 destruction or for training purposes. If the court determines that the item is not unlawful  
18 to possess by its owner, the item shall be ordered released to its owner upon satisfactory  
19 proof of ownership. The foregoing procedures for release shall not apply, however, with  
20 respect to an item seized for use as evidence in any criminal action or proceeding until  
21 after entry of final judgment."

22 **SECTION 4.** 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 involving the operation of five or more  
29 machines prohibited by that section or knowingly owning or possessing a machine  
30 which was not eligible for registration on October 1, 2000, under the language of  
31 G.S. 14-306.1 effective as of that date, is guilty of a Class G felony."

32 **SECTION 5.** Article 2 of Chapter 105 of the General Statutes is amended by  
33 adding a new section to read:

34 **"§ 105-37.3. Video gaming machines.**

35 (a) Scope. – A privilege tax is imposed on operation of a video gaming machine  
36 as defined in G.S. 14-306.1.

37 (b) Rate and Payment. – The rate of the privilege tax is one hundred twenty-five  
38 dollars (\$125.00) per calendar quarter, payable by the fifteenth day of the first month of  
39 each calendar quarter, for each location the video gaming machines are operated as of  
40 the first day of each calendar quarter, to be paid by the proprietor of the business where  
41 the machine is located.

42 (c) The quarterly tax levied under subsection (b) of this section shall be paid  
43 beginning with the third calendar quarter of 2004.

1        (d) Use by A.L.E. – The privilege permit tax paid under subsection (b) of this  
2 section shall be credited to the budget of the Alcohol Law Enforcement Division and  
3 shall be used for administering G.S. 14-298, 14-306, 14-306.2, and 14-309 or for other  
4 law enforcement purposes.

5        (e) Local Taxes. – Cities and counties may not levy a license or permit tax on a  
6 person taxed under this section."

7                **SECTION 6.** This act becomes effective October 1, 2004.