

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE DRH11049-RK-21 (02/09)

Short Title: Prohibit Sweepstakes Devices.

(Public)

Sponsors: Representative Rapp.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROHIBIT SWEEPSTAKES PROMOTERS FROM PROVIDING ANY TYPE  
3 OF ELECTRONIC MACHINE OR DEVICE TO SWEEPSTAKES ENTRANTS.

4 Whereas, the General Assembly made it unlawful to conduct or promote  
5 sweepstakes through the use of electronic machines or devices which use game play or  
6 simulated game play; and

7 Whereas, digitally enhanced game features, including video displays and graphics,  
8 affect a game player's experience in a way that manipulates the player in order to accelerate  
9 their giving additional money to participate in the activity; and

10 Whereas, researchers have concluded that due to the use of digital features and  
11 visual displays, players may lose their understanding of time, self-control, and money; and

12 Whereas, sweepstakes machines provide players with an opportunity to purchase a  
13 chance of winning a prize, which constitutes gambling; Now, therefore,  
14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** Article 37 of Chapter 14 of the General Statutes is amended by  
16 adding a new section to read:

17 **"§ 14-306.4A. All electronic machines or devices for sweepstakes unlawful.**

18 (a) Definitions. – For the purposes of this section, the following definitions apply:

19 (1) 'Electronic machine or device' means a mechanically, electrically, or  
20 electronically operated machine or device that is owned, leased, or otherwise  
21 possessed by a sweepstakes sponsor or promoter or any of the sweepstakes  
22 sponsor's or promoter's partners, affiliates, subsidiaries, or contractors that is  
23 intended to be used by a sweepstakes entrant, that uses energy, and that is  
24 capable of displaying information on a screen or other mechanism. This  
25 section is applicable to an electronic machine or device whether or not:

26 a. It is server-based.

27 b. It uses a simulated game terminal as a representation of the prizes  
28 associated with the results of the sweepstakes entries.

29 c. It utilizes software such that the simulated game influences or  
30 determines the winning or value of the prize.

31 d. It selects prizes from a predetermined finite pool of entries.

32 e. It utilizes a mechanism that reveals the content of a predetermined  
33 sweepstakes entry.

34 f. It predetermines the prize results and stores those results for delivery  
35 at the time the sweepstakes entry results are revealed.



- 1           g.     It utilizes software to create a game result.  
2           h.     It requires deposit of any money, coin, or token or the use of any  
3                 credit card, debit card, prepaid card, or any other method of payment  
4                 to activate the electronic machine or device.  
5           i.     It requires direct payment into the electronic machine or device or  
6                 remote activation of the electronic machine or device.  
7           j.     It requires purchase of a related product.  
8           k.     The related product, if any, has legitimate value.  
9           l.     It reveals the prize incrementally even though it may not influence if  
10                a prize is awarded or the value of any prize awarded.  
11           m.    It determines and associates the prize with an entry or entries at the  
12                time the sweepstakes is entered.  
13           n.    It is a slot machine or other form of electrical, mechanical, or  
14                computer game.

15           (2)   'Enter' or 'entry' means the act or process by which a person becomes eligible  
16                to receive any prize offered in a sweepstakes.

17           (3)   'Prize' means any gift, award, gratuity, good, service, credit, or anything else  
18                of value, which may be transferred to a person, whether possession of the  
19                prize is actually transferred, or placed on an account or other record as  
20                evidence of the intent to transfer the prize.

21           (4)   'Sweepstakes' means any game, advertising scheme or plan, or other  
22                promotion, which, with or without payment of any consideration, a person  
23                may enter to win or become eligible to receive any prize, the determination  
24                of which is based upon chance.

25           (b)   It shall be unlawful for a sweepstakes sponsor or promoter, or any of the  
26                sweepstakes sponsor's or promoter's partners, affiliates, subsidiaries, or contractors, to own,  
27                lease, or otherwise possess an electronic machine or device intended for use by sweepstakes'  
28                entrants as part of the promotion, entry, prize reveal, or any other action or activity relating to  
29                the conduct of the sweepstakes.

30           (c)   It is the intent of this section to prohibit any mechanism that seeks to avoid  
31                application of this section through the use of any subterfuge or pretense whatsoever.

32           (d)   Nothing in this section shall be construed to make illegal any activity which is  
33                lawfully conducted on Indian lands pursuant to, and in accordance with, an approved  
34                Tribal-State Gaming Compact applicable to that Tribe as provided in G.S. 147-12(14) and  
35                G.S. 71A-8.

36           (e)   Each violation of this section shall be considered a separate offense.

37           (f)   Notwithstanding the provisions of G.S. 14-309(a), any person who violates this  
38                section is guilty of:

39                (1)   A Class 2 misdemeanor for the first offense and is guilty of a Class H felony  
40                for a second offense and a Class G felony for a third or subsequent offense.

41                (2)   A Class G felony if the offense involves the possession of five or more  
42                machines.

43           (g)   This section specifically makes unlawful an electronic machine or device, as set  
44                forth in subsection (a) of this section, that is intended for the entrant's use. It does not apply to  
45                any electronic machine or device which is solely used by sweepstakes promoters or their  
46                agents, such as, by way of illustration and not exclusion, an electronic machine or device which  
47                is capable of reading a customer's identifying information contained on a magnetic stripe or bar  
48                code.

49           (h)   Nothing in this act is intended to repeal or affect the provisions of G.S. 14-306.4. A  
50                violation of this section is a lesser-included offense of G.S. 14-306.4."

51           **SECTION 2.** G.S. 14-309 reads as rewritten:

1 **"§ 14-309. Violation made criminal.**

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

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

8 (c) Notwithstanding the provisions of subsection (a) of this section, any person  
9 violating the provisions of ~~G.S. 14-306.3(b)~~ G.S. 14-306.3(b), 14-306.4(b), or 14-306.4A(b)  
10 involving the possession of five or more machines prohibited by that subsection is guilty of a  
11 Class G felony."

12 **SECTION 3.** This act becomes effective July 1, 2011, and applies to offenses  
13 committed on or after that date. Prosecutions for offenses committed before the effective date  
14 of this act are not abated or affected by this act, and the statutes that would be applicable but for  
15 this act remain applicable to those prosecutions.