

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 1011

Short Title: Felonious Gaming Machines. (Public)

Sponsors: Representatives Bell, Hardister, Humphrey, and Saine (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

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

April 29, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY FELONIOUS POSSESSION OF ELECTRONIC SWEEPSTAKES
3 MACHINES OR DEVICES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** G.S. 14-297 reads as rewritten:

6 "**§ 14-297. Allowing electronic sweepstakes machines or devices, gaming tables, illegal**
7 **punchboards or slot machines on premises.**

8 (a) If any person shall knowingly suffer to be opened, kept or used in ~~his~~the person's
9 house or on any part of the premises occupied therewith, any of the gaming tables prohibited by
10 G.S. 14-289 through 14-300 or any illegal punchboard or illegal slot machine, ~~he~~that person
11 shall forfeit and pay to any one who will sue therefor two hundred dollars (\$200.00), and shall
12 also be guilty of a Class 2 misdemeanor.

13 (b) Except as provided in subsection (c) of this section, if any person shall knowingly
14 suffer to be opened or used in or on any part of any premises owned or controlled by that person
15 more than four electronic machines or devices, as defined by G.S. 14-306.4, that person shall
16 forfeit all electronic machines or devices on the premises. Any such premises with four or less
17 electronic machines or devices must be more than 100 feet from any other electronic machines
18 or devices. For any such premises, each electronic machine or device must operate autonomously.
19 Any person who violates a provision of this subsection shall be guilty of a Class 2 misdemeanor.

20 (c) It shall not be a violation of subsection (b) of this section for any person to, prior to
21 January 1, 2020, knowingly suffer to be opened or used 25 or fewer electronic machines or
22 devices, as defined by G.S. 14-306.4, located in or on any part of any premises owned or
23 controlled by that person. Such person may continue to use 25 or fewer electronic machines or
24 devices after January 1, 2020, located at the premises owned or controlled by that person
25 provided the person complies with Article 2E of Chapter 105 of the General Statutes and does
26 not divide, subdivide, partition, lease, or sublease those premises as a means to open or use
27 additional electronic machines or devices. Any person who violates a provision of this subsection
28 shall be guilty of (i) a Class 1 misdemeanor for the first offense, (ii) a Class H felony for the
29 second offense, and (iii) a Class G felony for a third or subsequent offense.

30 (d) Any person who knowingly suffers to be opened or used an electronic machine or
31 device authorized under this section that does not display the permit sticker required under
32 G.S. 105-113.120, or displays an expired permit sticker shall be subject to a penalty of up to one
33 thousand dollars (\$1,000) per violation and that machine or device may be seized or disabled by
34 a law enforcement officer."



1 **SECTION 1.(b)** This section becomes effective October 1, 2019, and applies to
2 offenses committed on or after that date.

3 **SECTION 2.** G.S. 14-306.4 reads as rewritten:

4 **"§ 14-306.4. Electronic machines and devices for sweepstakes prohibited.**

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

6 (1) "Electronic machine or device" means a mechanically, electrically or
7 electronically operated machine or device, that is owned, leased or otherwise
8 possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes
9 sponsor's or promoter's partners, affiliates, subsidiaries or contractors, that is
10 intended to be used by a sweepstakes entrant, that uses energy, and that is
11 capable of displaying information on a screen or other mechanism. This
12 section is applicable to an electronic machine or device whether or not:

- 13 a. It is server-based.
- 14 b. It uses a simulated game terminal as a representation of the prizes
15 associated with the results of the sweepstakes entries.
- 16 c. It utilizes software such that the simulated game influences or
17 determines the winning or value of the prize.
- 18 d. It selects prizes from a predetermined finite pool of entries.
- 19 e. It utilizes a mechanism that reveals the content of a predetermined
20 sweepstakes entry.
- 21 f. It predetermines the prize results and stores those results for delivery
22 at the time the sweepstakes entry results are revealed.
- 23 g. It utilizes software to create a game result.
- 24 h. It requires deposit of any money, coin, or token, or the use of any credit
25 card, debit card, prepaid card, or any other method of payment to
26 activate the electronic machine or device.
- 27 i. It requires direct payment into the electronic machine or device, or
28 remote activation of the electronic machine or device.
- 29 j. It requires purchase of a related product.
- 30 k. The related product, if any, has legitimate value.
- 31 ~~l.~~ It reveals the prize incrementally, even though it may not influence if
32 a prize is awarded or the value of any prize awarded.
- 33 m. It determines and associates the prize with an entry or entries at the
34 time the sweepstakes is entered.
- 35 n. It is a slot machine or other form of electrical, mechanical, or computer
36 game.
- 37 o. It is a single-player or multiplayer game.
- 38 p. It is a single terminal or multiple terminals.

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

41 (3) "Entertaining display" means visual information, capable of being seen by a
42 sweepstakes entrant, that takes the form of actual game play, or simulated
43 game play, such as, by way of illustration and not exclusion:

- 44 a. A video poker game or any other kind of video playing card game.
- 45 b. A video bingo game.
- 46 c. A video craps game.
- 47 d. A video keno game.
- 48 e. A video lotto game.
- 49 f. Eight liner.
- 50 g. Pot-of-gold.

- 1 h. A video game based on or involving the random or chance matching
2 of different pictures, words, numbers, or symbols not dependent on the
3 skill or dexterity of the player.
- 4 i. Any other video game not dependent on skill or dexterity ~~that is played~~
5 ~~while at the moment of~~ revealing a prize as the result of an entry into
6 a sweepstakes.
- 7 j. It is a fish game or any other multiplayer or multistation video game.
- 8 (4) "Prize" means any gift, award, gratuity, good, service, credit, or anything else
9 of value, which may be transferred to a person, whether possession of the prize
10 is actually transferred, or placed on an account or other record as evidence of
11 the intent to transfer the prize.
- 12 (5) "Sweepstakes" means any game, advertising scheme or plan, or other
13 promotion, which, with or without payment of any consideration, a person
14 may enter to win or become eligible to receive any prize, the determination of
15 which is based upon chance.
- 16 (b) Notwithstanding any other provision of this Part, it shall be unlawful for any person
17 to operate, or place into operation, an electronic machine or device to do either of the following:
- 18 (1) Conduct a sweepstakes through the use of an entertaining display, including
19 the entry process or the reveal of a prize.
- 20 (2) Promote a sweepstakes that is conducted through the use of an entertaining
21 display, including the entry process or the reveal of a prize.
- 22 (c) It is the intent of this section to prohibit any mechanism that seeks to avoid application
23 of this section through the use of any subterfuge or pretense whatsoever.
- 24 (d) Nothing in this section shall be construed to make illegal any activity which is
25 lawfully conducted on Indian lands pursuant to, and in accordance with, an approved Tribal-State
26 Gaming Compact applicable to that Tribe as provided in G.S. 147-12(14) and G.S. 71A-8.
- 27 (e) Each violation of this section shall be considered a separate offense.
- 28 (f) Any person who violates this section is guilty of a Class 1 misdemeanor for the first
29 offense and is guilty of a Class H felony for a second offense and a Class G felony for a third or
30 subsequent offense.
- 31 (g) This section shall not apply to any video game based on or involving the random or
32 chance matching of different pictures, words, numbers, or symbols that involves the skill or
33 dexterity of the player if the electronic machine or device uses a certified valid sweepstakes
34 system. A certified valid sweepstakes system includes certification of both the sweepstakes game
35 software as well as the functionality of the sweepstakes promotion. The certification must be
36 accompanied with a unique certification number issued by a laboratory certified by the
37 International Organization for Standardization and the certification must have been issued on or
38 before January 1, 2020. Any modifications to certified sweepstakes software systems must be
39 recertified by a laboratory prior to being operated in this State. The game manufacturer must
40 display in the software the unique certification number issued by a laboratory certified by the
41 International Organization for Standardization. Such electronic machine or device must have a
42 method to secure and verify the software."

43 **SECTION 3.(a)** Chapter 105 of the General Statutes is amended by adding a new
44 Article to read:

45 "Article 2E.

46 "Electronic Sweepstakes.

47 "**§ 105-113.120. Excise tax on electronic machines or devices.**

48 (a) Tax. – An annual excise tax at the rate of two hundred fifty dollars (\$250.00) is levied
49 on each certified electronic machine or device, as defined in G.S. 14-306.4, operated in this State.
50 The amount due is payable by January 1 of each year. The full amount of tax applies to an
51 electronic sweepstakes device that operates during any portion of a calendar year. The Secretary

1 must issue stamps to affix to each electronic sweepstakes device to indicate payment as required
2 by this Article. The stamp must be displayed conspicuously on the electronic sweepstakes device
3 and it must clearly indicate the year for which the tax is paid. Upon payment of the tax, the
4 Secretary shall issue a stamp for each electronic sweepstakes device for which payment is
5 received.

6 (b) Applicability. – The tax imposed by this Article is applicable to any electronic
7 machine or device without regard to any of the following:

8 (1) How the machine or device is activated.

9 (2) How the machine or device is programmed for operation.

10 (3) How the machine or device determines and associates the prize with an entry
11 or entries at the time the sweepstakes is entered."

12 **SECTION 3.(b)** This section becomes effective January 1, 2020, and applies to an
13 electronic machine or device operated in this State on or after that date.

14 **SECTION 4.** Except as otherwise provided, this act becomes effective December 1,
15 2019.