

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 971

Short Title: Close Sweepstakes Loophole. (Public)

Sponsors: Senator Rand.

Referred to: Judiciary I.

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO FURTHER CLARIFY THAT CERTAIN SWEEPSTAKES ARE PROHIBITED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-306 reads as rewritten:

"§ 14-306. Slot machine or device defined.

(a) Any machine, apparatus or device is a slot machine or device within the provisions of G.S. 14-296 through 14-309, if it is one that is adapted, or may be readily converted into one that is adapted, for use in such a way that, as a result of the use or insertion of any piece of money or coin or other object, thing, or device, whether or not such object, thing, or device is deemed to have any value, such machine or device is caused to operate or may be operated in such manner that the user may receive or become entitled to receive any piece of money, credit, allowance or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, or which may be exchanged for any money, credit, allowance or any thing of value, or which may be given in trade, or the user may secure additional chances or rights to use such machine, apparatus or device; or any other machine or device designed and manufactured primarily for use in connection with gambling and which machine or device is classified by the United States as requiring a federal gaming device tax stamp under applicable provisions of the Internal Revenue Code. This definition is intended to embrace all slot machines and similar devices except slot machines in which is kept any article to be purchased by depositing any coin or thing of value, and for which may be had any article of merchandise which makes the same return or returns of equal value each and every time it is operated, or any machine wherein may be seen any pictures or heard any music by depositing therein any coin or thing of value, or any slot weighing machine or any machine for making stencils by the use of contrivances operated by depositing in the machine any coin or thing of value, or any lock operated by slot wherein money or thing of value is to be deposited, where such slot machines make the same return or returns of equal value each and every time the same is operated and does not at any time it is operated offer the user or operator any additional money, credit, allowance, or thing of value, or check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for money, credit, allowance or thing of value or which may be given in trade or by which the user may secure additional chances or rights to use such machine, apparatus, or device, or in the playing of which the operator does not have a chance to make varying scores or tallies.

(b) The definition contained in subsection (a) of this section and G.S. 14-296, 14-301, 14-302, and 14-305 does not include coin-operated machines, video games, pinball machines, and other computer, electronic or mechanical devices that are operated and played for amusement, that involve the use of skill or dexterity to solve problems or tasks or to make varying scores or tallies and ~~that~~:



1 (1) ~~Do that do~~ not emit, issue, display, print out, or otherwise record any receipt,
2 paper, coupon, token, or other form of record which is capable of being
3 redeemed, exchanged, or repurchased for cash, cash equivalent, or prizes, or
4 award free replays; or

5 (2) ~~In actual operation, limit to eight the number of accumulated credits or~~
6 ~~replays that may be played at one time and which may award free replays or~~
7 ~~paper coupons that may be exchanged for prizes or merchandise with a value~~
8 ~~not exceeding ten dollars (\$10.00), but may not be exchanged or converted~~
9 ~~to money replays.~~

10 (e) ~~Any video machine, the operation of which is made lawful by subsection (b)(2) of~~
11 ~~this section, shall have affixed to it in view of the player a sticker informing that person that it~~
12 ~~is a criminal offense with the potential of imprisonment to pay more than that which is allowed~~
13 ~~by law. In addition, if the machine has an attract chip which allows programming, the static~~
14 ~~display shall contain the same message.~~

15 (d) ~~The exception in subsection (b)(2) of this section does not apply to any machine that~~
16 ~~pays off in cash. The exemption in subsection (b)(2) of this section does not apply where the~~
17 ~~prizes, merchandise, credits, or replays are (i) repurchased for cash or rewarded by cash, (ii)~~
18 ~~exchanged for merchandise of a value of more than ten dollars (\$10.00), or (iii) where there is a~~
19 ~~cash payout of any kind, by the person operating or managing the machine or the premises, or~~
20 ~~any agent or employee of that person. It is also a criminal offense, punishable under G.S.~~
21 ~~14-309, for the person making the unlawful payout to the player of the machine to violate this~~
22 ~~section, in addition to any other person whose conduct may be unlawful.~~

23 (e) Any person who possesses no more than five slot machines as defined in this section
24 shall be guilty of a Class I felony. Any person who possesses more than five slot machines as
25 defined in this section shall be guilty of a Class H felony.

26 (g) Any person who manufacturers, possesses for the purpose of manufacture or
27 distribution, or distributes a slot machine as defined in this section shall be guilty of a Class H
28 felony for each machine manufactured, possessed, or distributed.

29 (h) For purposes of this section, "person" means individual, corporation, business, trust,
30 estate, partnership, association, or any other legal entity."

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

32 **"§ 14-306.1A. Types of machines and devices prohibited by law; penalties.**

33 (a) Ban on Machines. – It shall be unlawful for any person to operate, allow to be
34 operated, place into operation, or keep in that person's possession for the purpose of operation
35 any video gaming machine as defined in subsection (b) of this section, except for the exemption
36 for a federally recognized Indian tribe under subsection (e) of this section for whom it shall be
37 lawful to operate and possess machines as listed in subsection (b) of this section if conducted in
38 accordance with an approved Class III Tribal-State Compact applicable to that tribe, as
39 provided in G.S. 147-12(14) and G.S. 71A-8.

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

- 43 (1) A video poker game or any other kind of video playing card game.
- 44 (2) A video bingo game.
- 45 (3) A video craps game.
- 46 (4) A video keno game.
- 47 (5) A video lotto game.
- 48 (6) Eight liner.
- 49 (7) Pot-of-gold.

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

4 (9) A video version of a pull tab or scratch off game or any similar game.

5 (10) Any representation, simulation, or facsimile of any game of the type or
6 nature similar to those described in this subsection.

7 For the purpose of this section, a video gaming machine is a video machine which requires
8 deposit of any coin or token, or use of any credit card, debit card, or any other method that
9 requires payment to activate play of any of the games listed in this ~~subsection~~subsection or is
10 used or offered for use in connection with any sweepstakes, lottery, promotion, or advertising
11 scheme.

12 ~~For the purpose of this section, a video gaming machine includes those that are within the~~
13 ~~scope of the exclusion provided in G.S. 14-306(b)(2) unless conducted in accordance with an~~
14 ~~approved Class III Tribal State Compact applicable to that tribe as provided in G.S. 147-12(14)~~
15 ~~and G.S. 71A-8. For the purpose of this section, a video gaming machine does not include those~~
16 ~~that are within the scope of the exclusion provided in G.S. 14-306(b)(1).G.S. 14-306(b).~~

17 (c) Exemption for Certain Machines. – This section shall not apply to:

18 (1) Assemblers, repairers, manufacturers, sellers, lessors, or transporters of
19 video gaming machines who assemble, repair, manufacture, sell, lease, or
20 transport them for use out-of-state, or

21 (2) Assemblers, repairers, manufacturers, sellers, lessors, or transporters of
22 video gaming machines who assemble, repair, manufacture, sell, or lease
23 video gaming machines for use only by a federally recognized Indian tribe if
24 such machines may be lawfully used on Indian land under the Indian
25 Gaming Regulatory Act.

26 To qualify for an exemption under this subsection, the machines must be disabled and not
27 operable, unless the machines are located on Indian land where they may be lawfully operated
28 under a Tribal-State Compact.

29 (d) Ban on Warehousing. – It is unlawful to warehouse any video gaming machine
30 except in conjunction with the activities permitted under subsection (c) of this section.

31 (e) Exemption for Activities Under IGRA. – Notwithstanding any other prohibitions in
32 State law, the form of Class III gaming otherwise prohibited by subsections (a) through (d) of
33 this section may be legally conducted on Indian lands which are held in trust by the United
34 States government for and on behalf of federally recognized Indian tribes if conducted in
35 accordance with an approved Class III Tribal-State Gaming Compact applicable to that tribe as
36 provided in G.S. 147-12(14) and G.S. 71A-8.

37 (f) ~~Machines described in G.S. 14-306(b)(1) are excluded from this section."~~

38 **SECTION 3.** This act becomes effective December 1, 2009, and applies to
39 offenses committed on or after that date.