

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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**HOUSE BILL 226**

Short Title: Prohibit Sweepstakes Devices. (Public)

Sponsors: Representatives Rapp, Sanderson, Glazier, and Stam (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Commerce and Job Development, if favorable, Judiciary Subcommittee B.

March 3, 2011

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

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

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

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

Whereas, sweepstakes machines provide players with an opportunity to purchase a chance of winning a prize, which constitutes gambling; 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 section to read:

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

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

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

- a. It is server-based.
- b. It uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
- c. It utilizes software such that the simulated game influences or determines the winning or value of the prize.
- d. It selects prizes from a predetermined finite pool of entries.
- e. It utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
- f. It predetermines the prize results and stores those results for delivery 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.