

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 938

Short Title: Comprehensive Gaming Reform. (Public)

Sponsors: Representatives Warren, Waddell, Hardister, and Lambeth (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Finance.

April 20, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A UNIFIED AND COMPREHENSIVE SYSTEM OF
3 REGULATING GAMING IN NORTH CAROLINA AND TO REGULATE AND TAX
4 ELECTRONIC SWEEPSTAKES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The General Statutes are amended by adding a new Chapter to read:

7 **"Chapter 18D.**

8 **"Gaming.**

9 **"Article 1.**

10 **"General Provisions.**

11 **"§ 18D-100. Gaming Commission established.**

12 There is created the North Carolina State Gaming Commission to establish and oversee the
13 operation of gaming in this State. The Commission shall be located in the Department of
14 Commerce for budgetary purposes only; otherwise, the Commission shall be an independent,
15 self-supporting, and revenue-raising agency of the State. The Commission shall reimburse
16 other governmental entities that provide services to the Commission.

17 **"§ 18D-101. Commission membership.**

18 (a) Appointment. – The North Carolina State Gaming Commission shall consist of nine
19 members, appointed by the Governor and the General Assembly. In making appointments to
20 the Commission, the appointing authorities shall consider the composition of the State with
21 regard to geographic representation and gender, ethnic, racial, and age composition. The
22 members shall be appointed as follows:

23 (1) Five members appointed by the Governor. At least one of the members
24 appointed by the Governor shall have a minimum of five years' experience in
25 law enforcement, at least one of the members shall have experience in the
26 gaming industry, and at least one shall have experience in the boxing or
27 martial arts industry.

28 (2) Two members appointed by the General Assembly upon the
29 recommendation of the President Pro Tempore of the Senate. At least one of
30 the members appointed upon the recommendation of the President Pro
31 Tempore of the Senate shall be a certified public accountant.

32 (3) Two members appointed by the General Assembly upon the
33 recommendation of the Speaker of the House of Representatives. At least
34 one member appointed upon the recommendation of the Speaker of the



1 House of Representatives shall have retail sales experience as an owner or
2 manager.

3 (b) Terms. – Members may serve for terms of five years. Members shall not serve for
4 more than two successive terms.

5 (c) Vacancies; Removal. – Vacancies shall be filled by the appointing authority. A
6 member of the Commission may be removed by the appointing authority for cause.

7 **§ 18D-102. Actions that vacate office.**

8 A member of the Commission may not hold an elective office or be a candidate for an
9 elective office. If a member of the Commission takes any of the following actions, the member
10 vacates office as a member of the Commission and the vacancy shall be filled as provided by
11 G.S. 18D-101(c):

12 (1) Files a notice of candidacy under G.S. 163-106 or G.S. 163-323 or a petition
13 under G.S. 163-107.1 or G.S. 163-325.

14 (2) Is nominated to fill a vacancy among party nominees under G.S. 163-114 or
15 G.S. 163-115.

16 (3) Files a petition as an unaffiliated candidate under G.S. 163-122.

17 (4) Files a declaration of intent as a write-in candidate under G.S. 163-123.

18 (5) Is nominated by party convention under G.S. 163-98.

19 **§ 18D-103. Meetings; records.**

20 (a) Meetings. – Meetings of the Commission shall be subject to Article 33C of Chapter
21 143 of the General Statutes. A majority of the total membership of the Commission shall
22 constitute a quorum. The Governor shall select the chair of the Commission from among its
23 membership, who shall serve as chair at the pleasure of the Governor. The Commission shall
24 meet at least quarterly upon the call of the chair.

25 (b) Compensation. – Members of the Commission shall receive one hundred
26 twenty-five thousand dollars (\$125,000) per year for service on the Commission. If a member
27 does not serve a full year, the compensation shall be prorated accordingly.

28 (c) Records. – Except as provided in this Chapter, records of the Commission shall be
29 open and available to the public in accordance with Chapter 132 of the General Statutes.
30 Personnel records of the Commission are subject to Article 7 of Chapter 126 of the General
31 Statutes. Only the following information concerning a lottery winner is a public record:

32 (1) Name.

33 (2) City and state of residence.

34 (3) Game played.

35 (4) Amount won. For purposes of this subdivision, the amount won means the
36 nominal prize amount, the cash payment if different from the nominal prize
37 amount, and the cash payment after taxes are withheld.

38 (5) Date won.

39 **§ 18D-104. Powers and duties of the Commission.**

40 The Commission shall have the following powers and duties:

41 (1) To administer and enforce the provisions of this Chapter.

42 (2) To adopt rules to implement this Chapter.

43 (3) To conduct a background investigation, including a criminal history record
44 check, of potential electronic sweepstakes operators and electronic
45 sweepstakes vendors under Article 2 of this Chapter, which may include a
46 search of the State and National Repositories of Criminal Histories based on
47 the fingerprints of applicants.

48 (4) To charge a fee, not to exceed the cost of the criminal record check, of the
49 potential electronic sweepstakes operators and potential electronic
50 sweepstakes vendors.

(5) Any other powers necessary for the Commission to carry out its responsibilities under this Chapter.

"§ 18D-105. Reports.

The Commission shall send quarterly and annual reports on the operations of the Commission to the Governor, State Treasurer, and to the General Assembly. The reports shall include complete statements of revenues, prize disbursements, expenses, net revenues, and all other financial transactions involving funds collected or disbursed under this Chapter, including the occurrence of any audit.

"§ 18D-106. Audits.

The State Auditor shall conduct annual audits of all accounts and transactions of the Commission and any other special postaudits the State Auditor considers to be necessary.

"§§ 18D-107 through 18D-199: Reserved.

"Article 2.

"Lottery.

"§§ 18D-200 through 18D-299: Reserved.

"Article 3.

"Regulation of Electronic Sweepstakes.

"§ 18D-300. Citation.

This Article shall be known and may be cited as the North Carolina Electronic Sweepstakes Act.

"§ 18D-302. Definitions.

The following definitions apply in this Article:

- (1) Commission. – The North Carolina State Gaming Commission created under Article 1 of this Chapter.
- (2) Electronic sweepstakes device. – An energy driven device that is connected to a server through a local network that is capable of displaying sweepstakes results on a screen or other mechanism by a sweepstakes entrant.
- (3) Electronic sweepstakes establishment. – A place of business in which an electronic sweepstakes device is operated.
- (4) Electronic sweepstakes device operator. – A person licensed under this Article to operate or conduct a sweepstakes.
- (5) Electronic sweepstakes device vendor. – A person licensed under this Article to supply sweepstakes software to an electronic sweepstakes device operator.
- (6) Enter or entry. – The act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.
- (7) Prize. – Any gift, award, gratuity, good, service, credit, or anything else of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
- (9) Sweepstakes. – Any game, advertising scheme or plan, or other promotion that, with or without the purchase of any good or service and without separate consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance and in which there is a finite pool of entries.
- (10) Sweepstakes software. – A computer program used by a sweepstakes device operator to conduct a sweepstakes.

"§ 18D-303-309: Reserved.

"§ 18D-310. Licensure to operate an electronic sweepstakes establishment.

(a) License Required. – No electronic sweepstakes establishment may operate without a valid license issued by the Commission in accordance with this Article. Electronic sweepstakes devices may only be operated in a licensed electronic sweepstakes establishment.

- 1 **(b) Application for License.** – To obtain a license required by this Article, an applicant
2 shall do all of the following:
- 3 **(1)** File an application with the Commission and pay an application fee of two
4 hundred fifty dollars (\$250.00). The application must include the person's
5 full name, address, federal employer identification number, and all other
6 identifying information required by the Commission.
- 7 **(2)** Applicants shall comply with one of the following, and provide proof of
8 such compliance with the application:
- 9 a. If the applicant for a license is a corporation, the applicant must
10 either be incorporated in this State or be authorized to transact
11 business in this State.
- 12 b. If the applicant for a license is a limited liability company, the
13 applicant must either be organized in this State or be authorized to
14 transact business in this State.
- 15 c. If the applicant for a license is a limited partnership, the applicant
16 must either be formed in this State or be authorized to transact
17 business in this State.
- 18 d. If the applicant for a license is an individual or a general partnership,
19 the applicant must designate an agent for service of process and give
20 the agent's name and address.
- 21 e. If the person is not an individual, the application must also include
22 the name of a registered agent located in North Carolina.
- 23 **(3)** State the number of electronic sweepstakes devices to be placed into
24 operation at the electronic sweepstakes establishment.
- 25 **(4)** Attach the certification report from an authorized independent testing
26 laboratory for each electronic sweepstakes device to be placed into operation
27 at the electronic sweepstakes establishment.
- 28 **(5)** Provide any information required by G.S. 18D-212 for the purpose of a
29 background investigation.
- 30 **(6)** The name and location of the electronic sweepstakes establishment.
- 31 **(c) Issuance of License.** – The Commission shall conduct a background investigation of
32 the applicant prior to issuance of a license. The Commission shall deny the application if the
33 Commission determines any of the following:
- 34 **(1)** The applicant submitted false or misleading information on its application.
35 **(2)** The applicant previously held a license issued by the Commission that was
36 revoked and has not been restored.
- 37 **(3)** The applicant has been convicted of a violation of federal gambling laws, or
38 the gambling laws of any state, within five years of the date of the
39 application.
- 40 **(4)** The applicant's background investigation evidenced a pattern of failure to
41 exhibit good character and good standing in the community.
- 42 **(d) Transfer.** – A license issued under this Article may not be transferred or assigned.
- 43 **(e) Display.** – A license issued under this Article must be displayed conspicuously in
44 the electronic sweepstakes establishment where any electronic sweepstakes device is operated.
45 The license must state the number of devices located at the electronic sweepstakes
46 establishment and any further information required by the Commission.
- 47 **(f) Amendments.** – A licensee may apply to amend the license to add additional devices
48 on a form to be provided by the Commission.
- 49 **(g) Annual Renewal.** – Any license issued under this section must be renewed on or
50 before July 1 of each year. A renewal application must contain all of the information required

1 for an initial application under subsection (b) of this section and be accompanied by a renewal
2 in an amount equal to the initial application fee.

3 **"§ 18D-311: Reserved.**

4 **"§ 18D-312. Investigation of potential electronic sweepstakes device operators.**

5 (a) Investigation. – Potential electronic sweepstakes device operators shall cooperate
6 with the Director in completing any investigation required under G.S. 18D-310(c), including
7 any appropriate investigation authorizations needed to facilitate these investigations.

8 (b) Information. – The Commission shall adopt rules that provide for disclosures of
9 information required to be disclosed under subsection (c) of this section by potential electronic
10 sweepstakes device operators to ensure that the potential electronic sweepstakes device
11 operators provide all the information necessary to allow for a full and complete evaluation by
12 the Director and Commission of the competence, integrity, background, and character of the
13 potential electronic sweepstakes device operators. Information shall be disclosed for the
14 following:

- 15 (1) If the potential electronic sweepstakes device operator is a corporation, the
16 officers, directors, and each stockholder in that corporation; however, in the
17 case of owners of equity securities of a publicly traded corporation, only the
18 names and addresses of those known to the corporation to own beneficially
19 five percent (5%) or more of the securities need be disclosed.
- 20 (2) If the potential electronic sweepstakes device operator is a trust, the trustee
21 and all persons entitled to receive income or benefits from the trust.
- 22 (3) If the potential electronic sweepstakes device operator is an association, the
23 members, officers, and directors.
- 24 (4) If the potential electronic sweepstakes device operator is a partnership or
25 joint venture, all of the general partners, limited partners, or joint venturers.
- 26 (5) For any potential electronic sweepstakes device operator, any person who
27 can exercise control or authority, or both, on behalf of the potential
28 contractor. For any potential contractor, any person who can exercise control
29 or authority, or both, on behalf of the potential electronic sweepstakes device
30 operator.

31 (c) Disclosures. – For purposes of this subsection, the term "potential electronic
32 sweepstakes device operator" shall include the potential electronic sweepstakes device operator
33 and each of the persons applicable under subsection (b) of this section. At a minimum, the
34 potential electronic sweepstakes device operator required to disclose information for a thorough
35 background investigation under G.S. 18C-151 shall do all of the following:

- 36 (1) Disclose the potential electronic sweepstakes device operator's name, phone
37 number, and address.
- 38 (2) Disclose all the states and jurisdictions in which the potential electronic
39 sweepstakes device operator does business and the nature of the business for
40 each state or jurisdiction.
- 41 (3) Disclose all the states and jurisdictions in which the potential electronic
42 sweepstakes device operator has contracts to supply gaming goods or
43 services, including lottery goods and services, and the nature of the goods or
44 services involved for each state or jurisdiction.
- 45 (4) Disclose all the states and jurisdictions in which the potential electronic
46 sweepstakes device operator has applied for, has sought renewal of, has
47 received, has been denied, has pending, or has had revoked a lottery or
48 gaming license or permit of any kind or had fines or penalties assessed on a
49 license, permit, contract, or operation and the disposition of such in each
50 such state or jurisdiction. If any lottery or gaming license, permit, or contract
51 has been revoked or has not been renewed or any lottery or gaming license,

1 permit, or application has been either denied or is pending and has remained
2 pending for more than six months, all of the facts and circumstances
3 underlying the failure to receive that license shall be disclosed.

4 (5) Disclose the details of any finding or plea, conviction, or adjudication of
5 guilt in a state or federal court of the potential electronic sweepstakes device
6 operator for any felony or any other criminal offense other than a minor
7 traffic violation.

8 (6) Disclose the details of any bankruptcy, insolvency, reorganization, or
9 corporate or individual purchase or takeover of another corporation,
10 including bonded indebtedness, or any pending litigation of the potential
11 electronic sweepstakes device operator.

12 (7) Make any additional disclosures and information the Commission
13 determines to be appropriate for the contract involved.

14 (d) Confidential Information. – All documents compiled by the Director in conducting
15 the investigation of the potential electronic sweepstakes device operators shall be held as
16 confidential information under Chapter 132 of the General Statutes.

17 **"§ 18D-313: Reserved.**

18 **"§ 18D-314. Authorized independent testing laboratories.**

19 (a) List of Laboratories. – The Commission must publish and continuously maintain a
20 list of authorized independent testing laboratories. The Commission shall adopt rules to
21 establish a process of becoming an authorized independent testing laboratory.

22 (b) Certification Report. – The authorized independent testing laboratory shall issue a
23 certification report with respect to the electronic sweepstakes devices and all related software
24 and hardware and other systems. The certification report shall contain all of the following
25 information for each electronic sweepstakes device listed in the application:

26 (1) The components of the electronic sweepstakes devices and related systems.

27 (2) The operational characteristics of the electronic sweepstakes devices and
28 related systems.

29 (3) Verification that each sweepstakes proposed to be conducted on each device
30 meets all of the following conditions:

31 a. Selects prizes from a pool of entries where the total number of
32 entries, the number of winning and losing entries, and the number
33 and nature of prizes are finite, predetermined, and established prior to
34 the start of the sweepstakes.

35 b. Predetermines all winning and losing entries prior to the start of the
36 sweepstakes.

37 c. Provides free sweepstakes entries to customers upon purchase of a
38 good or service for which a consideration is paid.

39 d. Provides a method of free entry upon request.

40 e. Does not vary the chance of winning between free entries and entries
41 received as a result of a purchase of a good or service.

42 f. Contains no element of skill so that customer has no ability to alter or
43 affect the outcome or results.

44 (4) Verification that all electronic sweepstakes devices identified in the
45 application are operational and use the same entries for each sweepstakes
46 from a pool of entries hosted on a local server within the electronic
47 sweepstakes establishment.

48 **"§ 18D-315: Reserved.**

49 **"§ 18D-316. Licensure of electronic sweepstakes device vendor.**

50 (a) License Required. – The Commission shall license all electronic sweepstakes device
51 vendors that provide software for electronic sweepstakes devices used in North Carolina. No

1 person, personally or through the person's agent, shall supply sweepstakes software to a
2 sweepstakes device operator without first obtaining a license from the Commission.

3 (b) Application. – The application for the electronic sweepstakes device vendor license
4 shall be on forms prescribed by the Commission and shall contain at least the following
5 information:

- 6 (1) The full legal name of the electronic sweepstakes device vendor.
- 7 (2) The contact information, including address, telephone number, federal tax
8 identification number, and contact person for the electronic sweepstakes
9 device vendor.
- 10 (3) A certificate or report that meets the requirements of G.S. 18D-314.
- 11 (4) Agreement from the applicant, and fingerprints, to submit to a criminal
12 background check.

13 **"§ 18D-317. Regulation of electronic sweepstakes establishments.**

14 (a) Scope. – This Article authorizes only the operation of server-based electronic
15 sweepstakes devices that associate a prize with an entry or entries from a predetermined finite
16 pool of winning and losing entries at the time the sweepstakes is entered.

17 (b) Prohibitions. – A person may not do any the following:

- 18 (1) Intentionally design, promote, or conduct a sweepstakes in which a specific
19 individual, location, or electronic sweepstakes device may be predetermined
20 as a winner or the sweepstakes software may be manipulated or rigged so as
21 to do either of the following:
 - 22 a. Allocate a winning sweepstakes or any portion thereof to certain
23 lessees, agents, or franchisees.
 - 24 b. Allocate a winning sweepstakes or part thereof to a particular period
25 of the sweepstakes or to a particular geographic area.
- 26 (2) Willfully remove, disqualify, disallow, modify, or reject any entry other than
27 for failure by the entrant to comply with the rules of the sweepstakes.
- 28 (3) Willfully fail to award prizes offered other than for failure by the entrant to
29 comply with the rules of the sweepstakes or award or advertise prizes other
30 than those which have been properly announced under this section.
- 31 (4) Willfully print, publish, or circulate literature or advertisements for a
32 sweepstakes that is false, intentionally deceptive, or intentionally
33 misleading.
- 34 (5) Knowingly require the participant in a sweepstakes to pay more than fair
35 market value for the item, product, or service which entitles a participant to
36 enter a sweepstakes.
- 37 (6) Operate a sweepstakes game which does not have a finite number of entries.
- 38 (7) Fail to offer and provide a free method of entry for any sweepstakes for
39 which the chance of winning is the same as other entries received with the
40 purchase of a product or service.
- 41 (8) Fail to display the license required under this Article and the sweepstakes
42 software certification in a public and conspicuous place at the location in
43 which the sweepstakes takes place.

44 (c) Signage Requirements. – A licensed electronic sweepstakes device operator must
45 comply with all of the following requirements:

- 46 (1) Exterior of premises. – Exterior signage shall be limited to the advertisement
47 of the consumer product or consumer service, or both, sold on the premises
48 and that a sweepstakes promotion is offered. No signs shall be posted on the
49 exterior of the premises that suggest gambling takes place on the premises or
50 that display any image commonly associated with slot machines.

- 1 (2) Interior premises. – The electronic sweepstakes device operator shall
2 conspicuously post in the interior of the premises the following:
3 a. All consumer products or consumer services offered for sale shall be
4 identified by the description and price by conspicuous posting.
5 b. Complete rules for all sweepstakes promotions shall be posted at the
6 premises' front or main counter, and a complete copy of the rules,
7 prize tables, and odds of winning shall be made available upon
8 request without cost.
- 9 (3) Before a consumer may reveal an entry with the use of a sweepstakes
10 gaming device, an electronic sweepstakes device operator shall cause to be
11 displayed on the sweepstakes gaming device in at least a font size of 14 the
12 following which shall be affirmatively acknowledged by the consumer:
13 "YOU HAVE ENTERED A SWEEPSTAKES GAME THAT IS
14 PREDETERMINED. YOU CANNOT CHANGE THE OUTCOME BY
15 PLAYING THE GAMES. THIS IS NOT GAMBLING. SWEEPSTAKES
16 ENTRIES CAN BE OPENED IN ANY OF THE GAMES."
- 17 (4) Advertisement. – Any advertising by the electronic sweepstakes device
18 operator shall comply with the following:
19 a. All advertising shall include resources for responsible gaming
20 information.
21 b. No advertising may intentionally target specific groups or economic
22 classes.
23 c. No advertising may be misleading, deceptive, or present any lottery
24 game as a means of relieving any person's financial or personal
25 difficulties.
26 d. No advertising may have the primary purpose of inducing persons to
27 participate in the gambling.
- 28 (d) Limitations. – An electronic sweepstakes device operator may not do any of the
29 following:
30 (1) Be issued an ABC permit that authorizes the retail sale of alcoholic
31 beverages for consumption on the premises of any location in which a
32 sweepstakes licensed under this Article takes place.
33 (2) Permit an individual under 18 years of age to enter or be employed at a
34 facility operated by the sweepstakes gaming device operator for
35 sweepstakes.
36 (3) Offer or pay out a single prize with a value of more than ten thousand dollars
37 (\$10,000).
38 (4) Cause the sweepstakes results to be located other than on a server that is at
39 the location in which the sweepstakes takes place.
- 40 (e) Supply List of Winners. – Within 60 days after the winners have been determined,
41 an electronic sweepstakes device operator shall provide the Commission with a certified list of
42 the names and addresses of all persons who have won prizes with a value of more than six
43 hundred dollars (\$600), the value of the prizes, and the dates the prizes were paid to the winner.
44 **§ 18D-318: Reserved.**
45 **§ 18D-319. Revocation or suspension of license.**
- 46 (a) Reasons. – The Commission may revoke or suspend a license issued under this
47 Article for any of the following reasons:
48 (1) The licensee requests the cancellation in writing.
49 (2) The Commission finds that the licensee has committed one or more of the
50 following acts:
51 a. Made a false statement in an application required by this Article.

- 1 b. Willfully failed to file a tax return required by Article 2E of Chapter
2 105 of the General Statutes.
3 c. Willfully failed to pay a tax when due under Article 2E of Chapter
4 105 of the General Statutes.
5 d. Willfully violated any requirement of this Article.
6 e. Is convicted of any criminal violation of Article 37 of Chapter 14 of
7 the General Statutes.
8 f. Is convicted of a violation of federal gaming laws.

9 (b) Procedure. – The Commission shall follow the administrative hearings process of
10 Article 3 of Chapter 150B of the General Statutes when revoking or suspending a license issued
11 under this Article.

12 **"§ 18D-320. Enforcement; penalties.**

13 (a) Enforcement. – The Commission and its law enforcement agents may investigate
14 and inspect sweepstakes operations in this State and take any other necessary and reasonable
15 action to determine if a violation of any provision of this Article has occurred.

16 (b) Penalty. – Unless a greater penalty is otherwise provided by law for conduct that is
17 also a violation of this Article, the following penalties apply:

- 18 (1) A person operating an electronic sweepstakes without a license is guilty of a
19 Class 2 misdemeanor, is subject to a minimum fine of twenty-five thousand
20 dollars (\$25,000) and a maximum fine of one hundred thousand dollars
21 (\$100,000), and is barred from obtaining a license under this Article.
22 (2) A person who willfully violates any other provision of this Article is subject
23 to a civil penalty with a minimum fine of five hundred dollars (\$500.00) and
24 a maximum fine of ten thousand dollars (\$10,000).

25 "Article 4.

26 "Bingo and Raffles.

27 **"§§ 18D-400 through 18D-499: Reserved.**

28 "Article 5.

29 "Regulation of Boxing.

30 **"§§ 18D-500 through 18D-599: Reserved.**

31 SECTION 2.(a) Chapter 105 of the General Statutes is amended by adding a new
32 article to read:

33 "Article 2E.

34 "Electronic Sweepstakes.

35 **"§ 105-113.120. Purpose; definitions.**

36 The taxes imposed in this Article provide revenue for law enforcement and for the use of
37 the State government. The definitions in G.S. 18D-302 apply in this Article.

38 **"§ 105-113.121. Excise tax on electronic sweepstakes establishments and devices.**

39 (a) Excise Tax. – An excise tax is levied on each electronic sweepstakes establishment
40 operating in this State as follows:

- 41 (1) A rate per electronic sweepstakes establishment.
42 (2) A rate per electronic sweepstakes device.
43 (3) A rate on gross receipts.

44 (b) Rate Per Establishment. – An annual excise tax at the rate of two thousand dollars
45 (\$2,000) is levied on an electronic sweepstakes establishment. The amount due is payable by
46 January 1 of each year. The full amount of the tax applies to an establishment that operates
47 during any portion of a calendar year.

48 (c) Rate Per Device. – An annual excise tax at the rate of one thousand dollars (\$1,000)
49 is levied on each electronic sweepstakes device operated in an electronic sweepstakes
50 establishment. The amount due is payable by January 1 of each year. The full amount of tax
51 applies to an electronic sweepstakes device that operates during any portion of a calendar year.

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

6 (d) Gross Receipts. – An annual excise tax of four percent (4%) of the taxable gross
7 receipts from operating an electronic sweepstakes device is levied on each electronic
8 sweepstakes establishment. The amount due is payable quarterly or monthly in accordance with
9 the schedule and requirements that apply to payments of sales and use tax under
10 G.S. 105-164.16. A return is due quarterly. A quarterly return covers a calendar quarter and is
11 due by the last day of the month that follows the quarter covered by the return. For purposes of
12 this subsection, taxable gross receipts are the gross receipts derived by the establishment that
13 result in a person's eligibility to operate a sweepstakes device at the establishment to determine
14 whether the person has won a sweepstakes prize, less the amount of any prizes transferred to a
15 sweepstakes entrant. The return must include the taxpayer's gross receipts from operating one
16 or more electronic sweepstakes devices during the reporting period and the prizes awarded
17 during this period to a sweepstakes entrant.

18 (e) Report and Payment. – A person who operates an electronic sweepstakes
19 establishment must report the taxes payable under this section in the form required by the
20 Secretary. The return must include the address where the electronic sweepstakes devices are
21 located and whether the location is within the corporate limits of a municipality.
22 Notwithstanding any other provision of law, the person is not required to give identifying
23 information on the return, and the return is not required to be verified by oath or affirmation.
24 The tax is due when the return is filed. Taxes may be paid and stamps may be issued either by
25 mail or in person.

26 **"§ 105-113.122. Local tax.**

27 (a) Authorization. – A county or city may, by resolution or ordinance respectively,
28 impose an excise tax as allowed under this section on each electronic sweepstakes
29 establishment located in that county or city. A county or city may not impose an excise tax or a
30 license, franchise, or privilege tax on a person operating an electronic sweepstakes
31 establishment except as provided in this section. A tax imposed under this section is limited as
32 provided in subsection (b) of this section.

33 (b) Limitation. – An excise tax allowed under this section may be levied by the county
34 or by the city but not by both the county and the city.

35 (c) Rate Per Establishment. – A county or city may impose an annual excise tax at the
36 rate of one thousand dollars (\$1,000) on each electronic sweepstakes establishment located in
37 that jurisdiction. The amount due is payable by January 1 of each year. The full amount of tax
38 applies to an establishment that operates during any portion of a calendar year.

39 (d) Rate Per Device. – A county or city may impose an annual excise tax at the rate of
40 five hundred dollars (\$500.00) on each electronic sweepstakes device operated in an electronic
41 sweepstakes establishment located in that jurisdiction. The amount due is payable by January 1
42 of each year. The full amount of tax applies to an electronic sweepstakes device operated
43 during any portion of the calendar year.

44 (e) Administration. – Upon adoption of a resolution or ordinance levying the taxes
45 allowed under this section, the governing body of the county or city must immediately deliver a
46 certified copy of the resolution or ordinance to the Secretary. Upon receipt of the document, the
47 Secretary shall collect and administer the tax in the same manner as the taxes imposed under
48 G.S. 105-113.121. The Secretary must distribute the local revenues collected to the county or
49 city for which the taxes are collected by March 31 of each year.

1 (f) Use of Funds. – At least three percent (3%) of the net revenues collected under this
2 section must be distributed to the county sheriff's department or the municipal police
3 department of the taxing jurisdiction. The remainder may be used for any public purpose.

4 (g) Penalty and Collection. – The penalty and collection provisions allowed under
5 Article 9 of this Chapter apply to taxes levied under the authority of this section in the same
6 manner and to the same extent as they apply to taxes levied by the State under this Article.

7 (h) Nature. – The General Assembly finds that the revenue distributed under this
8 section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of
9 the North Carolina Constitution and may not be reduced or withheld by the Governor.

10 **"§ 105-113.123. Use of proceeds.**

11 (a) Distribution. – The Secretary shall distribute the net tax proceeds collected under
12 this Article as provided in this section. The Department may retain six percent (6%) of the net
13 proceeds for its administrative expenses.

14 (b) Law Enforcement. – The Secretary must distribute nine percent (9%) of the net
15 proceeds collected under this Article to various law enforcement agencies, as provided in this
16 subsection. The remaining proceeds collected under this Article may be used for any public
17 purpose.

18 The monies distributed under this subsection are provided as additional funding for the
19 purposes for which they are distributed and are not intended to supplant existing funding.

20 (1) Three percent (3%) must be distributed to the county sheriff's departments
21 on a per capita basis according to the most recent annual population
22 estimates certified to the Secretary by the State Budget Officer.

23 (2) Three percent (3%) must be distributed to the municipal police departments
24 on a per capita basis according to the most recent annual population
25 estimates certified to the Secretary by the State Budget Officer.

26 (3) Three percent (3%) must be credited to the General Fund and appropriated
27 by the General Assembly in the Current Operations Appropriations Act for
28 the fiscal year that begins the following July 1 to the Department of Public
29 Safety for the support and operation of the Alcohol Law Enforcement
30 Section.

31 (c) Local Tax. – If a county or city imposes an excise tax under G.S. 105-113.122, the
32 amount that would be distributed to the county sheriff's department or the municipal police
33 department of the taxing jurisdiction under subsection (b) of this section is waived. This
34 amount reverts to the General Fund and may be used for any public purpose.

35 **"§ 105-113.124. Applicability; illegal activity.**

36 This Article is applicable to any electronic sweepstakes device without regard to any of the
37 following:

38 (1) How the device is activated.

39 (2) How the device is programmed for operation.

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

42 **SECTION 2.(b)** G.S. 153A-146, as amended by S.L. 2015-6, reads as rewritten:

43 "(b) Prohibition. – A county may not impose a license, franchise, or privilege tax on a
44 person engaged in any of the businesses listed in this subsection:

45 (1) Supplying piped natural gas.

46 (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

47 (3) Providing video programming taxed under G.S. 105-164.4(a)(6).

48 (4) Providing electricity.

49 (5) Operating an electronic sweepstakes establishment under Chapter 18D of the
50 General Statutes except as authorized under G.S. 105-113.124."

1 **SECTION 3.(a)** Article 1 of Chapter 18C of the General Statutes is recodified as
2 Part 1 of Article 2 of Chapter 18D of the General Statutes, as enacted by Section 1 of this act.

3 **SECTION 3.(b)** Article 2 of Chapter 18C of the General Statutes is repealed.

4 **SECTION 3.(c)** Article 3 of Chapter 18C of the General Statutes is recodified as
5 Part 2 of Article 2 of Chapter 18D of the General Statutes, as enacted by Section 1 of this act.

6 **SECTION 3.(d)** Article 4 of Chapter 18C of the General Statutes is recodified as
7 Part 3 of Article 2 of Chapter 18D of the General Statutes, as enacted by Section 1 of this act.

8 **SECTION 3.(e)** Article 5 of Chapter 18C of the General Statutes is recodified as
9 Part 4 of Article 2 of Chapter 18D of the General Statutes, as enacted by Section 1 of this act.

10 **SECTION 3.(f)** Article 6 of Chapter 18C of the General Statutes is recodified as
11 Part 5 of Article 2 of Chapter 18D of the General Statutes, as enacted by Section 1 of this act.

12 **SECTION 3.(g)** Article 1 of Chapter 18C of the General Statutes is recodified as
13 Part 6 of Article 2 of Chapter 18D of the General Statutes, as enacted by Section 7 of this act.

14 **SECTION 3.(h)** Article 8 of Chapter 18C of the General Statutes is recodified as
15 Part 7 of Article 2 of Chapter 18D of the General Statutes, as enacted by Section 1 of this act.

16 **SECTION 4.(a)** Part 2 of Article 37 of Chapter 14 of the General Statutes is
17 recodified as Article 4 of Chapter 18D of the General Statutes, as enacted by Section 1 of this
18 act.

19 **SECTION 4.(b)** The Revisor of Statutes shall delete the phrase "Department of
20 Public Safety" and "Department" and substitute "Commission" wherever it appears in Article 4
21 of Chapter 18D of the General Statutes, as recodified by this section.

22 **SECTION 5.(a)** G.S. 143-652.2 is repealed.

23 **SECTION 5.(b)** Except for G.S. 143-652.2, Article 68 of Chapter 143 of the
24 General Statutes is recodified as Article 5 of Chapter 18D of the General Statutes, as enacted
25 by Section 1 of this act.

26 **SECTION 6.** The Revisor of Statutes shall replace all of the following terms in
27 Article 5 of Chapter 18D of the General Statutes, as recodified by this section, with
28 "Commission":

29 (1) Alcohol Law Enforcement Branch of the Department of Public Safety.

30 (2) Branch.

31 (3) Secretary of Public Safety.

32 **SECTION 7.(a)** G.S. 14-306.4 is repealed.

33 **SECTION 7.(b)** G.S. 14-298 reads as rewritten:

34 "**§ 14-298. Seizure of illegal gaming items.**

35 Upon a determination that probable cause exists to believe that any gaming table prohibited
36 to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine,
37 any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1A, or any game
38 terminal described in G.S. 14-306.3(b), or any electronic machine or device using an
39 entertaining display in violation of G.S. 14-306.4 G.S. 14-306.3(b) is in the illegal possession or
40 use of any person within the limits of their jurisdiction, all sheriffs and law enforcement
41 officers are authorized to seize the items in accordance with applicable State law. Any law
42 enforcement agency in possession of that item shall retain the item pending a disposition order
43 from a district or superior court judge. Upon application by the law enforcement agency,
44 district attorney, or owner, and after notice and opportunity to be heard by all parties, if the
45 court determines that the item is unlawful to possess, it shall enter an order releasing the item to
46 the law enforcement agency for destruction or for training purposes. If the court determines that
47 the item is not unlawful to possess and will not be used in violation of the law, the item shall be
48 ordered released to its owner upon satisfactory proof of ownership. The foregoing procedures
49 for release shall not apply, however, with respect to an item seized for use as evidence in any
50 criminal action or proceeding until after entry of final judgment."

51 **SECTION 8.** G.S. 143B-947 reads as rewritten:

1 **"§ 143B-947. Criminal record checks for the North Carolina State Lottery Commission**
2 **and its Director.**

3 The Department of Public Safety may provide to the North Carolina ~~State Lottery Gaming~~
4 Commission and to its Director from the State and National Repositories of Criminal Histories
5 the criminal history of any prospective employee of the Commission and any potential
6 ~~contractor, contractor or licensee.~~ The North Carolina ~~State Lottery Gaming~~ Commission or its
7 Director shall provide to the Department of Public Safety, along with the request, the
8 fingerprints of the prospective employee of the Commission, or of the potential contractor, a
9 form signed by the prospective employee of the Commission, or of the potential contractor
10 consenting to the criminal record check and use of fingerprints and other identifying
11 information required by the State and National Repositories, and any additional information
12 required by the Department of Public Safety. The fingerprints of the prospective employee of
13 the Commission, or potential contractor, shall be forwarded to the State Bureau of Investigation
14 for a search of the State's criminal history record file, and the State Bureau of Investigation
15 shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal
16 history record check. The North Carolina ~~State Lottery Gaming~~ Commission and its Director
17 shall remit any fingerprint information retained by the Commission to alcohol law enforcement
18 agents appointed under Article 5 of Chapter 18B of the General Statutes and shall keep all
19 information obtained pursuant to this section confidential. The Department of Public Safety
20 shall charge a reasonable fee only for conducting the checks of the criminal history records
21 authorized by this section."

22 **SECTION 9.** G.S. 18B-500 reads as rewritten:

23 **"§ 18B-500. Alcohol law-enforcement agents.**

24 (a) Appointment. – The Director of the State Bureau of Investigation shall appoint
25 alcohol law-enforcement agents and other enforcement personnel. The Director may also
26 appoint regular employees of the Commission as alcohol law-enforcement agents. Alcohol
27 law-enforcement agents shall be designated as "alcohol law-enforcement agents". Persons
28 serving as reserve alcohol law-enforcement agents are considered employees of the Alcohol
29 Law Enforcement Branch for workers' compensation purposes while performing duties
30 assigned or approved by the Head of the Alcohol Law Enforcement Branch or the Head's
31 designee.

32 (b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
33 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
34 enforcement actions for any criminal offense. The primary responsibility of an agent shall be
35 enforcement of the ~~ABC-ABC, sweepstakes,~~ and lottery laws.

36 (c) Territorial Jurisdiction. – An alcohol law-enforcement agent is a State officer with
37 jurisdiction throughout the State.

38 (d) Service of Commission Orders. – Alcohol law-enforcement agents may serve and
39 execute notices, orders, or demands issued by the Alcoholic Beverage Control Commission or
40 the North Carolina ~~State Lottery Gaming~~ Commission for the surrender of permits or relating to
41 any administrative proceeding. While serving and executing such notices, orders, or demands,
42 alcohol law-enforcement agents shall have all the power and authority possessed by
43 law-enforcement officers when executing an arrest warrant.

44 (e) Discharge. – Alcohol law-enforcement agents are subject to the discharge
45 provisions of G.S. 18B-202.

46 (f) Repealed by Session Laws 1995, c. 507, s. 6.2(a).

47 (g) Shifting of Personnel From One District to Another. – The Head of the Alcohol Law
48 Enforcement Branch, under rules adopted by the Department of Public Safety may, from time
49 to time, shift the forces from one district to another or consolidate more than one district force
50 at any point for special purposes. Whenever an agent of the Alcohol Law Enforcement Section
51 is transferred from one district to another for the convenience of the State or for reasons other

1 than the request of the agent, the Department shall be responsible for transporting the
2 household goods, furniture, and personal apparel of the agent and members of the agent's
3 household."

4 **SECTION 10.** Notwithstanding G.S. 18D-101, as enacted by Section 1 of this act,
5 the initial appointments to the North Carolina State Gaming Commission are as follows:

6 (1) Of the initial appointees of the Governor, three members shall serve a term
7 of one year, one member shall serve a term of two years, and one member
8 shall serve a term of three years.

9 (2) Of the initial appointees of the General Assembly upon the recommendation
10 of the President Pro Tempore of the Senate, one member shall serve a term
11 of two years, and one member shall serve a term of three years.

12 (3) Of the initial appointees of the General Assembly upon the recommendation
13 of the Speaker of the House of Representatives, one member shall serve a
14 term of two years, and one member shall serve a term of three years.

15 **SECTION 11.** The provisions of Article 3 of Chapter 18D of the General Statutes,
16 as enacted by Section 1 of this act, become effective January 1, 2016, and the Commission
17 shall adopt temporary rules and procedures to implement the licensure processes no later than
18 September 1, 2015. G.S. 105-113.125, as enacted by Section 2(a) of this act, becomes effective
19 January 1, 2016, and applies to an electronic sweepstakes establishment and to an electronic
20 sweepstakes device operated in this State on or after that date. Section 7 of this act becomes
21 effective January 1, 2016. The remainder of this act is effective when it becomes law.