

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 326
Mar 17, 2021
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40192-SA-9

Short Title: ENOUGH/Gaming Machines. (Public)

Sponsors: Representative Hurley.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO END NUISANCES OF UNLAWFUL GAMING HOUSES BY REQUIRING
3 PAYMENT OF STORAGE AND DISPOSAL FEES FOR SEIZED GAMING MACHINES,
4 AUTHORIZING SEIZURE OF VEHICLES USED TO TRANSPORT ILLEGAL GAMING
5 MACHINES, MODIFYING THE DEFINITIONS OF VIDEO GAMING MACHINE AND
6 ELECTRONIC SWEEPSTAKES MACHINES, AND MODIFYING THE PENALTY FOR
7 ILLEGAL POSSESSION OF CERTAIN GAMING MACHINES.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** This act shall be known as the "End Nuisances of Unlawful Gaming
10 Houses Act."

11 **SECTION 2.** G.S. 14-298 reads as rewritten:

12 "**§ 14-298. Seizure of illegal gaming items.**

13 Upon a determination that probable cause exists to believe that any gaming table prohibited
14 to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine,
15 any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1A, any game
16 terminal described in G.S. 14-306.3(b), or any electronic machine or device using an entertaining
17 display in violation of G.S. 14-306.4 is in the illegal possession or use of any person within the
18 limits of their jurisdiction, all sheriffs and law enforcement officers are authorized to seize the
19 items in accordance with applicable State law. Any law enforcement agency in possession of that
20 item shall retain the item pending a disposition order from a district or superior court judge. Upon
21 application by the law enforcement agency, district attorney, or owner, and after notice and
22 opportunity to be heard by all parties, if the court determines that the item is unlawful to possess,
23 it shall enter an order releasing the item to the law enforcement agency for destruction or for
24 training ~~purposes.~~ purposes and shall order the owner to pay the reasonable costs of storage and
25 disposal incurred by the seizing law enforcement agency. If the item was seized for use as
26 evidence in a criminal action or proceeding against the owner of the item, upon any plea of guilty
27 or nolo contendere in that action or proceeding by the owner of the item, the court shall order the
28 owner to pay the reasonable costs of storage and disposal incurred by the seizing law enforcement
29 agency. If the court determines that the item is not unlawful to possess and will not be used in
30 violation of the law, the item shall be ordered released to its owner upon satisfactory proof of
31 ownership. The foregoing procedures for release shall not apply, however, with respect to an
32 item seized for use as evidence in any criminal action or proceeding until after entry of final
33 judgment."

34 **SECTION 3.** G.S. 14-299 reads as rewritten:

35 "**§ 14-299. Property exhibited by gamblers to be seized; disposition of same.**



1 Except as provided in Chapter 18C of the General Statutes or in G.S. 14-292, all moneys or
2 other property or thing of value exhibited for the purpose of alluring persons to bet on any game,
3 or used in the conduct of any such game, including any motor vehicle (i) used in the conduct of
4 a lottery within the purview of G.S. 14-291.1, G.S. 14-291.1 or (ii) used to transport any video
5 game machine prohibited by G.S. 14-306 or G.S. 14-306.1A, or any electronic machine or device
6 prohibited by G.S. 14-306.4, shall be liable to be seized by any court of competent jurisdiction
7 or by any person acting under its warrant. Moneys so seized shall be turned over to and paid to
8 the treasurer of the county wherein they are seized, and placed in the general fund of the county.
9 Any property seized which is used for and is suitable only for gambling shall be destroyed, and
10 all other property so seized shall be sold in the manner provided for the sale of personal property
11 by execution, and the proceeds derived from said sale shall (after deducting the expenses of
12 keeping the property and the costs of the sale and after paying, according to their priorities all
13 known prior, bona fide liens which were created without the lienor having knowledge or notice
14 that the motor vehicle or other property was being used or to be used in connection with the
15 conduct of such game or lottery) be turned over and paid to the treasurer of the county wherein
16 the property was seized, to be placed by said treasurer in the general fund of the county."

17 **SECTION 4.** G.S. 14-306(a) reads as rewritten:

18 "(a) Any machine, apparatus or device is a slot machine or device within the provisions
19 of G.S. 14-296 through 14-309, if it is one that is adapted, or may be readily converted into one
20 that is adapted, for use in such a way that, as a result of the payment of any piece of money or
21 coin or token or any credit card, debit card, prepaid card, or any other method that requires
22 payment to activate play, whether directly into the slot machine or device or resulting in remote
23 activation, such machine or device is caused to operate or may be operated in such manner that
24 the user may receive or become entitled to receive any piece of money, credit, allowance or thing
25 of value, or any check, slug, token or memorandum, whether of value or otherwise, or which may
26 be exchanged for any money, credit, allowance or any thing of value, or which may be given in
27 trade, or the user may secure additional chances or rights to use such machine, apparatus or
28 device; or any other machine or device designed and manufactured primarily for use in
29 connection with gambling and which machine or device is classified by the United States as
30 requiring a federal gaming device tax stamp under applicable provisions of the Internal Revenue
31 Code. This definition is intended to embrace all slot machines and similar devices except slot
32 machines in which is kept any article to be purchased by depositing any coin or thing of value,
33 and for which may be had any article of merchandise which makes the same return or returns of
34 equal value each and every time it is operated, or any machine wherein may be seen any pictures
35 or heard any music by depositing therein any coin or thing of value, or any slot weighing machine
36 or any machine for making stencils by the use of contrivances operated by depositing in the
37 machine any coin or thing of value, or any lock operated by slot wherein money or thing of value
38 is to be deposited, where such slot machines make the same return or returns of equal value each
39 and every time the same is operated and does not at any time it is operated offer the user or
40 operator any additional money, credit, allowance, or thing of value, or check, slug, token or
41 memorandum, whether of value or otherwise, which may be exchanged for money, credit,
42 allowance or thing of value or which may be given in trade or by which the user may secure
43 additional chances or rights to use such machine, apparatus, or device, or in the playing of which
44 the operator does not have a chance to make varying scores or tallies. Each game console, play
45 station, or other access point allowing a person to operate a slot machine shall constitute a
46 separate machine or device."

47 **SECTION 5.** G.S. 14-306.1A reads as rewritten:

48 "**§ 14-306.1A. Types of machines and devices prohibited by law; penalties.**

49 (a) Ban on Machines. – It shall be unlawful for any person to operate, allow to be
50 operated, place into operation, or keep in that person's possession for the purpose of operation
51 any video gaming machine as defined in subsection (b) of this section, except for the exemption

1 for a federally recognized Indian tribe under subsection (e) of this section for whom it shall be
 2 lawful to operate and possess machines as listed in subsection (b) of this section if conducted in
 3 accordance with an approved Class III Tribal-State Compact applicable to that tribe, as provided
 4 in G.S. 147-12(14) and G.S. 71A-8.

5 (b) Definitions. – As used in this section, a video gaming machine means a slot machine
 6 as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such
 7 as, by way of illustration and not exclusion:

8 (1) A video poker game or any other kind of video playing card game.

9 (2) A video bingo game.

10 (3) A video craps game.

11 (4) A video keno game.

12 (5) A video lotto game.

13 (6) Eight liner.

14 (7) Pot-of-gold.

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

18 (8a) A video game based on or involving the random or chance matching of
 19 different pictures, words, numbers, or symbols, not dependent on skill or
 20 dexterity that is played in conjunction with revealing a prize as the result of
 21 an entry into a sweepstakes, or with any other offering of an opportunity to
 22 obtain anything of value.

23 (9) Any other video game ~~not whether dependent on chance or dependent on skill~~
 24 ~~or dexterity that is played while in conjunction with revealing a prize as the~~
 25 ~~result of an entry into a sweepstakes, sweepstakes or with any other offering~~
 26 ~~of an opportunity to obtain anything of value.~~

27 (10) A video slot game.

28 For the purpose of this section, a video gaming machine is a video machine which requires
 29 deposit of any coin or token, or use of any credit card, debit card, prepaid card, or any other
 30 method that requires payment, whether directly into the video gaming machine or resulting in
 31 remote activation, to activate play of any of the games listed in this subsection.

32 For the purpose of this section, a video gaming machine includes those that ~~are within the~~
 33 ~~scope of the exclusion provided in G.S. 14-306(b)(2) in actual operation, limit to eight the number~~
 34 ~~of accumulated credits or replays that may be played at one time and which may award free~~
 35 ~~replays or paper coupons that may be exchanged for prizes or merchandise with a value not~~
 36 ~~exceeding ten dollars (\$10.00), but may not be exchanged or converted to money, unless~~
 37 ~~conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe~~
 38 ~~as provided in G.S. 147-12(14) and G.S. 71A-8.~~

39 For the purpose of this section, a video gaming machine does not include those that ~~are within~~
 40 ~~the scope of the exclusion provided in G.S. 14-306(b)(1) do not emit, issue, display, print out, or~~
 41 ~~otherwise record any receipt, paper, coupon, token, or other form of record which is capable of~~
 42 ~~being redeemed, exchanged, or repurchased for cash, cash equivalent, or prizes, or award free~~
 43 ~~replays.~~

44 ...

45 (g) Definition. – For purposes of this section, the terms "device dependent on skill or
 46 dexterity" and "sweepstakes" are as defined in G.S. 14-306.4."

47 **SECTION 6.** G.S. 14-306.4 reads as rewritten:

48 **"§ 14-306.4. Electronic machines and devices for sweepstakes prohibited.**

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

- 1 (1) Device dependent on skill or dexterity. – A device where the element of
2 chance is not present in such a manner as to thwart the exercise of skill,
3 dexterity, or judgment.
- 4 (1a) ~~"Electronic machine or device"~~ means a Electronic machine or device. – A
5 mechanically, electrically or electronically operated machine or device, that
6 is owned, leased or otherwise possessed by a sweepstakes sponsor or
7 promoter, or any of the sweepstakes sponsor's or promoter's partners,
8 affiliates, subsidiaries or contractors, that is intended to be used by a
9 sweepstakes entrant, that uses energy, and that is capable of displaying
10 information on a screen or other mechanism. This section is applicable to an
11 electronic machine or device whether or not:
- 12 a. It is server-based.
 - 13 b. It uses a simulated game terminal as a representation of the prizes
14 associated with the results of the sweepstakes entries.
 - 15 c. It utilizes software such that the simulated game influences or
16 determines the winning or value of the prize.
 - 17 d. It selects prizes from a predetermined finite pool of entries.
 - 18 e. It utilizes a mechanism that reveals the content of a predetermined
19 sweepstakes entry.
 - 20 f. It predetermines the prize results and stores those results for delivery
21 at the time the sweepstakes entry results are revealed.
 - 22 g. It utilizes software to create a game result.
 - 23 h. It requires deposit of any money, coin, or token, or the use of any credit
24 card, debit card, prepaid card, or any other method of payment to
25 activate the electronic machine or device.
 - 26 i. It requires direct payment into the electronic machine or device, or
27 remote activation of the electronic machine or device.
 - 28 j. It requires purchase of a related product.
 - 29 k. The related product, if any, has legitimate value.
 - 30 l. It reveals the prize incrementally, even though it may not influence if
31 a prize is awarded or the value of any prize awarded.
 - 32 m. It determines and associates the prize with an entry or entries at the
33 time the sweepstakes is entered.
 - 34 n. It is a slot machine or other form of electrical, mechanical, or computer
35 game.
- 36 (2) ~~"Enter" or "entry"~~ means the Enter or entry. – The act or process by which a
37 person becomes eligible to receive any prize offered in a sweepstakes.
- 38 (3) ~~"Entertaining display"~~ means visual Entertaining display. – Visual
39 information, capable of being seen by a sweepstakes entrant, that takes the
40 form of actual game play, or simulated game play, such as, by way of
41 illustration and not exclusion:
- 42 a. A video poker game or any other kind of video playing card game.
 - 43 b. A video bingo game.
 - 44 c. A video craps game.
 - 45 d. A video keno game.
 - 46 e. A video lotto game.
 - 47 f. Eight liner.
 - 48 g. Pot-of-gold.
 - 49 h. A video game based on or involving the random or chance matching
50 of different pictures, words, numbers, or symbols not dependent on the
51 skill or dexterity of the player.

- 1 i. A video game based on or involving the random or chance matching
 2 of different pictures, words, numbers, or symbols, not dependent on
 3 skill or dexterity that is played in conjunction with revealing a prize as
 4 the result of an entry into a sweepstakes, or with any other offering of
 5 an opportunity to obtain anything of value.
- 6 j. Any other video game ~~not whether dependent on chance or~~ dependent
 7 on skill or dexterity that is played while revealing a prize as the result
 8 of an entry into a ~~sweepstakes.~~ sweepstakes or with any other offering
 9 of an opportunity to obtain anything of value.
- 10 k. A video slot game.
- 11 (4) ~~"Prize" means any Prize.~~ – Any gift, award, gratuity, good, service, credit, or
 12 anything else of value, which may be transferred to a person, whether
 13 possession of the prize is actually transferred, or placed on an account or other
 14 record as evidence of the intent to transfer the prize.
- 15 (5) ~~"Sweepstakes" means any Sweepstakes.~~ – Any game, advertising scheme or
 16 plan, or other promotion, which, with or without payment of any
 17 consideration, a person may enter to win or become eligible to receive any
 18 prize, the determination of which is based upon chance.
- 19 (b) Notwithstanding any other provision of this Part, it shall be unlawful for any person
 20 ~~to operate, or operate,~~ place into operation, or possess for the purpose of operation an electronic
 21 machine or device to do either of the following:
- 22 (1) Conduct a sweepstakes through the use of an entertaining display, including
 23 the entry process or the reveal of a prize.
- 24 (2) Promote a sweepstakes that is conducted through the use of an entertaining
 25 display, including the entry process or the reveal of a prize.

26"

27 **SECTION 7.** G.S. 14-309 reads as rewritten:

28 "**§ 14-309. Violation made criminal.**

29 (a) ~~Any~~ Except as otherwise provided in this section, any person who violates any
 30 provision of G.S. 14-304 through 14-309 is guilty of a Class 1 misdemeanor for the first offense,
 31 and is guilty of a Class H felony for a second offense and a Class G felony for a third or
 32 subsequent offense.

33 (b) Notwithstanding the provisions of subsection (a) of this section, any person violating
 34 the provisions of G.S. 14-306.1A involving the ~~operation~~ operation, or the possession for the
 35 purpose of operation, of five or more machines prohibited by that section is guilty of a ~~Class G~~
 36 ~~felony.~~ Class H felony for a first or second offense and a Class G felony for a third or subsequent
 37 offense.

38 (c) Notwithstanding the provisions of subsection (a) of this ~~section,~~ section or
 39 G.S. 14-306.4, any person violating the provisions of G.S. 14-306.3(b) or G.S. 14-306.4(b)
 40 involving the possession of five or more machines prohibited by ~~that subsection~~ those subsections
 41 is guilty of a ~~Class G felony.~~ Class H felony for a first or second offense and a Class G felony for
 42 a third or subsequent offense.

43 (d) In addition to any other penalty provided by law, any person convicted of a violation
 44 of this Article involving a device prohibited by G.S. 14-306 or G.S. 14-306.1A shall pay a fine
 45 of one thousand dollars (\$1,000) for each machine or device."

46 **SECTION 8.** This act becomes effective December 1, 2021, and applies to offenses
 47 committed and seizures occurring on or after that date.