



SENATE BILL 380: Clarify Felony Possess Sweepstakes Machine.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	June 23, 2020
Introduced by:	Sens. Wells, Hise, Daniel	Prepared by:	Erika Churchill
Analysis of:	Fifth Edition		Staff Attorney

OVERVIEW: *Senate Bill 380 would amend the laws relating to electronic machines or devices for sweepstakes, creating a new felony for possession of certain autonomous and certain non-autonomous electronic machines or devices.*

[As introduced, this bill was identical to H532, as introduced by Reps. Blackwell, Setzer, McGrady, Dobson, which is now S.L. 2019-20.]

CURRENT LAW:

Illegal Slot Machines (G.S. 14-296; G.S. 14-306): The general rule in North Carolina is that slot machines are illegal. A slot machine is any machine which can be activated by putting any "piece of money, coin, or other object" into the machine, which causes it to operate and the user will receive anything of "value or otherwise" including additional rights to use the machine, sometimes referred to as credits. Any person who knowingly suffers to be opened, kept or used on their property, an illegal slot machine is guilty of a Class 2 misdemeanor. G.S. 14-297.

Legal Slot Machines (G.S. 14-306): All coin-operated machines, video games, pinball machines, and other computer, electronic or mechanical devices that meet all of the following criteria:

- Are operated and played for amusement.
- Involve the use of skill or dexterity to solve problems or tasks, or to make varying scores.
- Do not display, emit, or otherwise record anything which is capable of being redeemed for cash, prizes, or free replays.
- Limit the player to eight (8) credits or replays at one time, and which may award free replays or coupons that may be exchanged for prizes or merchandise with a value not exceeding \$10. The prize or merchandise may not be converted to money. Law requires a sticker to be attached noting that it is a criminal offense to exceed the \$10 value amount.

This does not apply to any machine that pays out in cash, or where any prizes, merchandise, credits, or replays are repurchased for cash, exchanged for anything worth more than \$10, or any type of cash payout whatsoever. Examples include:

- Vending machines – Insert a given amount in which is associated with a specific item which is dispensed every time.
- Juke boxes – Insert coins and hear music.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

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Video Gaming Machines (G.S. 14-306.1A): It is illegal to operate, allow to be operated, place into operation, or keep in your possession for the purpose of operation a video gaming machine. The definition of a "video gaming machine" includes (i) slot machines, and (ii) other forms of electrical, mechanical, or computer games. It is a video machine that requires any method of payment to activate the game. Examples of video games are video poker (or any other kind of card game), video bingo, or any video game based on the random matching of different words, numbers, or symbols, and that is not dependent on the player's skill or dexterity. The statute specifically does not allow the exception to the slot machine law that allows for the pay-out of merchandise of a value of \$10 or less.

Server Based Game Promotions (G.S. 14-306.3): It is illegal to possess a game terminal with a display that simulates a game that is ordinarily played on a slot machine, or video gaming machine. However, the system must meet all four of the following criteria, or it is not covered under the law:

1. A database contains a pool of entries with each entry associated with a prize value.
2. Participants obtain a prepaid card.
3. With each prepaid card, the participant obtains one or more entries.
4. Entries are revealed: at a point-of-sale terminal, or at a game terminal with a display that simulates a game ordinarily played on a slot machine or a video gaming machine.

Electronic Machines or Devices for "Sweepstakes" (G.S. 14-306.4): It is unlawful for any person to operate, or place into operation, an electronic machine or device to do either of the following:

1. Conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize.
2. Promote a sweepstakes that is conducted through the use of an entertaining display, including the entry process or the reveal of a prize.

A sweepstakes, for this purpose, is "any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance." Games of skills are excluded.

Each violation is a separate offense, and punishment is on a sliding scale:

- First Offense – Class 1 misdemeanor.
- Second Offense – Class H felony.
- Third or subsequent Offense – Class G felony.

The statute does not address possession of the electronic machine or device.

BILL ANALYSIS: The bill would amend G.S. 14-306.4 to do all of the following:

- Amend the definition of electronic machine or device to specify that definition applies whether or not the machine or device is autonomous. As defined by that statute, an "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.

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- Add a definition of autonomous. 'Autonomous' would be any electronic machine or device that is not connected to a server; is incapable of connection to the Internet; is incapable of receiving any maintenance, upgrades, or changes to software remotely over any network; and is not capable of allowing any accounting functions or retrieval of accounting data related to the machine or device remotely over any network.
- Specify that a 'fish game' or other multiplayer/multi-station video game in which players can play against the software or each other is a stated example of an 'entertaining display.'
- Create a new Class G felony for any person to operate, or place into operation, any one of the following:
 - One or more non autonomous electronic machines or devices.
 - Five or more electronic machines or devices in one location.
 - Any electronic machine or device within 100 feet of four or more other electronic machines or devices.

EFFECTIVE DATE: This act would become effective December 1, 2020, and apply to offenses committed on or after that date.