



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3619

by Rep. Chad Hays

SYNOPSIS AS INTRODUCED:

230 ILCS 40/25
230 ILCS 40/27
230 ILCS 40/80

Amends the Video Gaming Act. Provides that the Illinois Gaming Board shall not grant an application to become a licensed video gaming location if the Board determines that granting the application would more likely than not cause a terminal operator licensed video gaming location to operate the video gaming terminals in 2 or more licensed video gaming locations as a single video gaming operation. Provides factors to be considered by the Board in determining restrictions on licenses in malls. Provides that the Board shall presume that the granting of an application to become a licensed video gaming location within a mall will cause a terminal operator to operate the video gaming terminals in 2 or more licensed video gaming locations as a single video gaming operation if the Board determines that granting the license would create a local concentration of licensed video gaming locations. Provides that a home rule municipality, or a home rule county with respect to unincorporated portions of the county, may impose separate requirements on video gaming that provide sources of municipal or county revenue or impose limitations on video gaming that are more restrictive than those provided under the Act. Provides that all current supplier licensees under the Riverboat Gambling Act shall be entitled to licensure under the Video Gaming Act as manufacturers, distributors, or suppliers without additional Board investigation or approval, except by vote of the Board; however, they are required to pay application and annual fees under the Video Gaming Act. Defines terms.

LRB100 09202 RJF 19358 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning gaming.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Video Gaming Act is amended by changing
5 Sections 25, 27, and 80 as follows:

6 (230 ILCS 40/25)

7 Sec. 25. Restriction of licensees.

8 (a) Manufacturer. A person may not be licensed as a
9 manufacturer of a video gaming terminal in Illinois unless the
10 person has a valid manufacturer's license issued under this
11 Act. A manufacturer may only sell video gaming terminals for
12 use in Illinois to persons having a valid distributor's
13 license.

14 (b) Distributor. A person may not sell, distribute, or
15 lease or market a video gaming terminal in Illinois unless the
16 person has a valid distributor's license issued under this Act.
17 A distributor may only sell video gaming terminals for use in
18 Illinois to persons having a valid distributor's or terminal
19 operator's license.

20 (c) Terminal operator. A person may not own, maintain, or
21 place a video gaming terminal unless he has a valid terminal
22 operator's license issued under this Act. A terminal operator
23 may only place video gaming terminals for use in Illinois in

1 licensed establishments, licensed truck stop establishments,
2 licensed fraternal establishments, and licensed veterans
3 establishments. No terminal operator may give anything of
4 value, including but not limited to a loan or financing
5 arrangement, to a licensed establishment, licensed truck stop
6 establishment, licensed fraternal establishment, or licensed
7 veterans establishment as any incentive or inducement to locate
8 video terminals in that establishment. Of the after-tax profits
9 from a video gaming terminal, 50% shall be paid to the terminal
10 operator and 50% shall be paid to the licensed establishment,
11 licensed truck stop establishment, licensed fraternal
12 establishment, or licensed veterans establishment,
13 notwithstanding any agreement to the contrary. A video terminal
14 operator that violates one or more requirements of this
15 subsection is guilty of a Class 4 felony and is subject to
16 termination of his or her license by the Board.

17 (d) Licensed technician. A person may not service,
18 maintain, or repair a video gaming terminal in this State
19 unless he or she (1) has a valid technician's license issued
20 under this Act, (2) is a terminal operator, or (3) is employed
21 by a terminal operator, distributor, or manufacturer.

22 (d-5) Licensed terminal handler. No person, including, but
23 not limited to, an employee or independent contractor working
24 for a manufacturer, distributor, supplier, technician, or
25 terminal operator licensed pursuant to this Act, shall have
26 possession or control of a video gaming terminal, or access to

1 the inner workings of a video gaming terminal, unless that
2 person possesses a valid terminal handler's license issued
3 under this Act.

4 (e) Licensed establishment. No video gaming terminal may be
5 placed in any licensed establishment, licensed veterans
6 establishment, licensed truck stop establishment, or licensed
7 fraternal establishment unless the owner or agent of the owner
8 of the licensed establishment, licensed veterans
9 establishment, licensed truck stop establishment, or licensed
10 fraternal establishment has entered into a written use
11 agreement with the terminal operator for placement of the
12 terminals. A copy of the use agreement shall be on file in the
13 terminal operator's place of business and available for
14 inspection by individuals authorized by the Board. A licensed
15 establishment, licensed truck stop establishment, licensed
16 veterans establishment, or licensed fraternal establishment
17 may operate up to 5 video gaming terminals on its premises at
18 any time.

19 (f) (Blank).

20 (g) Financial interest restrictions. As used in this Act,
21 "substantial interest" in a partnership, a corporation, an
22 organization, an association, a business, or a limited
23 liability company means:

24 (A) When, with respect to a sole proprietorship, an
25 individual or his or her spouse owns, operates, manages, or
26 conducts, directly or indirectly, the organization,

1 association, or business, or any part thereof; or

2 (B) When, with respect to a partnership, the individual
3 or his or her spouse shares in any of the profits, or
4 potential profits, of the partnership activities; or

5 (C) When, with respect to a corporation, an individual
6 or his or her spouse is an officer or director, or the
7 individual or his or her spouse is a holder, directly or
8 beneficially, of 5% or more of any class of stock of the
9 corporation; or

10 (D) When, with respect to an organization not covered
11 in (A), (B) or (C) above, an individual or his or her
12 spouse is an officer or manages the business affairs, or
13 the individual or his or her spouse is the owner of or
14 otherwise controls 10% or more of the assets of the
15 organization; or

16 (E) When an individual or his or her spouse furnishes
17 5% or more of the capital, whether in cash, goods, or
18 services, for the operation of any business, association,
19 or organization during any calendar year; or

20 (F) When, with respect to a limited liability company,
21 an individual or his or her spouse is a member, or the
22 individual or his or her spouse is a holder, directly or
23 beneficially, of 5% or more of the membership interest of
24 the limited liability company.

25 For purposes of this subsection (g), "individual" includes
26 all individuals or their spouses whose combined interest would

1 qualify as a substantial interest under this subsection (g) and
2 whose activities with respect to an organization, association,
3 or business are so closely aligned or coordinated as to
4 constitute the activities of a single entity.

5 (h) Location restriction. A licensed establishment,
6 licensed truck stop establishment, licensed fraternal
7 establishment, or licensed veterans establishment that is (i)
8 located within 1,000 feet of a facility operated by an
9 organization licensee licensed under the Illinois Horse Racing
10 Act of 1975 or the home dock of a riverboat licensed under the
11 Riverboat Gambling Act or (ii) located within 100 feet of a
12 school or a place of worship under the Religious Corporation
13 Act, is ineligible to operate a video gaming terminal. The
14 location restrictions in this subsection (h) do not apply if
15 (A) a facility operated by an organization licensee, a school,
16 or a place of worship moves to or is established within the
17 restricted area after a licensed establishment, licensed truck
18 stop establishment, licensed fraternal establishment, or
19 licensed veterans establishment becomes licensed under this
20 Act or (B) a school or place of worship moves to or is
21 established within the restricted area after a licensed
22 establishment, licensed truck stop establishment, licensed
23 fraternal establishment, or licensed veterans establishment
24 obtains its original liquor license. For the purpose of this
25 subsection, "school" means an elementary or secondary public
26 school, or an elementary or secondary private school registered

1 with or recognized by the State Board of Education.

2 Notwithstanding the provisions of this subsection (h), the
3 Board may waive the requirement that a licensed establishment,
4 licensed truck stop establishment, licensed fraternal
5 establishment, or licensed veterans establishment not be
6 located within 1,000 feet from a facility operated by an
7 organization licensee licensed under the Illinois Horse Racing
8 Act of 1975 or the home dock of a riverboat licensed under the
9 Riverboat Gambling Act. The Board shall not grant such waiver
10 if there is any common ownership or control, shared business
11 activity, or contractual arrangement of any type between the
12 establishment and the organization licensee or owners licensee
13 of a riverboat. The Board shall adopt rules to implement the
14 provisions of this paragraph.

15 (h-5) Restrictions on licenses in malls. The Board shall
16 not grant an application to become a licensed video gaming
17 location if the Board determines that granting the application
18 would more likely than not cause a terminal operator,
19 individually or in combination with other terminal operators,
20 licensed video gaming location, or other person or entity, to
21 operate the video gaming terminals in 2 or more licensed video
22 gaming locations as a single video gaming operation.

23 (1) In making determinations under this subsection
24 (h-5), factors to be considered by the Board shall include,
25 but not be limited to, the following:

26 (A) the physical aspects of the location;

1 (B) the ownership, control, or management of the
2 location;

3 (C) any arrangements, understandings, or
4 agreements, written or otherwise, among or involving
5 any persons or entities that involve the conducting of
6 any video gaming business or the sharing of costs or
7 revenues; and

8 (D) the manner in which any terminal operator or
9 other related entity markets, advertises, or otherwise
10 describes any location or locations to any other person
11 or entity or to the public.

12 (2) The Board shall presume, subject to rebuttal, that
13 the granting of an application to become a licensed video
14 gaming location within a mall will cause a terminal
15 operator, individually or in combination with other
16 persons or entities, to operate the video gaming terminals
17 in 2 or more licensed video gaming locations as a single
18 video gaming operation if the Board determines that
19 granting the license would create a local concentration of
20 licensed video gaming locations.

21 For the purposes of this subsection (h-5):

22 "Mall" means a building, or adjoining or connected
23 buildings, containing 4 or more separate locations.

24 "Video gaming operation" means the conducting of video
25 gaming and all related activities.

26 "Location" means a space within a mall containing a

1 separate business, a place for a separate business, or a place
2 subject to a separate leasing arrangement by the mall owner.

3 "Licensed video gaming location" means a licensed
4 establishment, licensed fraternal establishment, licensed
5 veterans establishment, or licensed truck stop.

6 "Local concentration of licensed video gaming locations"
7 means that the combined number of licensed video gaming
8 locations within a mall exceed half of the separate locations
9 within the mall.

10 (i) Undue economic concentration. In addition to
11 considering all other requirements under this Act, in deciding
12 whether to approve the operation of video gaming terminals by a
13 terminal operator in a location, the Board shall consider the
14 impact of any economic concentration of such operation of video
15 gaming terminals. The Board shall not allow a terminal operator
16 to operate video gaming terminals if the Board determines such
17 operation will result in undue economic concentration. For
18 purposes of this Section, "undue economic concentration" means
19 that a terminal operator would have such actual or potential
20 influence over video gaming terminals in Illinois as to:

21 (1) substantially impede or suppress competition among
22 terminal operators;

23 (2) adversely impact the economic stability of the
24 video gaming industry in Illinois; or

25 (3) negatively impact the purposes of the Video Gaming
26 Act.

1 The Board shall adopt rules concerning undue economic
2 concentration with respect to the operation of video gaming
3 terminals in Illinois. The rules shall include, but not be
4 limited to, (i) limitations on the number of video gaming
5 terminals operated by any terminal operator within a defined
6 geographic radius and (ii) guidelines on the discontinuation of
7 operation of any such video gaming terminals the Board
8 determines will cause undue economic concentration.

9 (j) The provisions of the Illinois Antitrust Act are fully
10 and equally applicable to the activities of any licensee under
11 this Act.

12 (Source: P.A. 97-333, eff. 8-12-11; 98-31, eff. 6-24-13; 98-77,
13 eff. 7-15-13; 98-112, eff. 7-26-13; 98-756, eff. 7-16-14.)

14 (230 ILCS 40/27)

15 Sec. 27. Prohibition or limitation of video gaming by
16 political subdivision.

17 (a) A municipality may pass an ordinance prohibiting video
18 gaming within the corporate limits of the municipality. A
19 county board may, for the unincorporated area of the county,
20 pass an ordinance prohibiting video gaming within the
21 unincorporated area of the county.

22 (b) A home rule municipality, or a home rule county with
23 respect to unincorporated portions of the county, may impose
24 separate requirements on video gaming that provide sources of
25 municipal or county revenue or impose limitations on video

1 gaming more restrictive than those provided under this Act.

2 These requirements may include the following:

3 (1) license fees;

4 (2) occupation taxes;

5 (3) licensing requirements;

6 (4) limitations on hours of video gaming terminal play
7 more restrictive than those provided under the liquor
8 license of a licensed establishment, licensed veterans
9 organization, or licensed fraternal organization;

10 (5) limitations on the numbers of video gaming
11 terminals within a licensed establishment, licensed
12 veterans organization, licensed fraternal organization, or
13 licensed truck stop;

14 (6) limitations on the total number of licensed
15 establishments, licensed veterans organizations, licensed
16 fraternal organizations, or licensed truck stops allowed
17 within the municipality or county, or a specific portion of
18 the municipality or county;

19 (7) limitations on hours of video gaming play;

20 (8) zoning to limit the areas within a municipality or
21 county where video gaming is permitted; or

22 (9) other requirements intended to promote safety,
23 morals, health, or welfare within the municipality or
24 county.

25 (Source: P.A. 96-34, eff. 7-13-09.)

1 (230 ILCS 40/80)

2 Sec. 80. Applicability of Illinois Riverboat Gambling Act.

3 The provisions of the Illinois Riverboat Gambling Act, and all
4 rules promulgated thereunder, shall apply to the Video Gaming
5 Act, except where there is a conflict between the 2 Acts. All
6 current supplier licensees under the Riverboat Gambling Act
7 shall be entitled to licensure under the Video Gaming Act as
8 manufacturers, distributors, or suppliers without additional
9 Board investigation or approval, except by vote of the Board;
10 however, they are required to pay application and annual fees
11 under this Act. All provisions of the Uniform Penalty and
12 Interest Act shall apply, as far as practicable, to the subject
13 matter of this Act to the same extent as if such provisions
14 were included herein.

15 (Source: P.A. 96-37, eff. 7-13-09.)