



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3623

by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

230 ILCS 40/35	
720 ILCS 5/28-1	from Ch. 38, par. 28-1
720 ILCS 5/28-2	from Ch. 38, par. 28-2

Amends the Criminal Code of 2012. Changes the definition of "gambling device" to include any vending or other electronic machine or device, including, without limitation, a machine or device that awards credits and contains a circuit, meter, or switch capable of removing and recording the removal of credits that offers a person entry into any contest, competition, sweepstakes, scheme, plan, or other selection process that involves or is dependent upon an element of chance for which the person may receive a gift, award, or other item or service of value if that offer is incidental to or results from: (A) the purchase of an item or service of value; or (B) the purchase or gratuitous receipt of a coupon, voucher, certificate, or other similar credit that can be redeemed for or applied towards an item or service of value from such machine or device or elsewhere. Provides that participants in a game of skill or chance where money or other things of value can be won but no payment or purchase is required to participate shall not be convicted of gambling except where participation in such game of skill or chance is accomplished using a gambling device prohibited by these changes to the definition. Further provides that a gambling offense involving such a gambling device is a Class 4 felony. Amends the Video Gaming Act. Removes a provision allowing for the use of a game device without a license if the game device is used in an activity that is not gambling under the Criminal Code of 2012. Effective immediately.

LRB100 08800 MJP 18940 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL 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 Section 35 as follows:

6 (230 ILCS 40/35)

7 Sec. 35. Display of license; confiscation; violation as
8 felony.

9 (a) Each video gaming terminal shall be licensed by the
10 Board before placement or operation on the premises of a
11 licensed establishment, licensed truck stop establishment,
12 licensed fraternal establishment, or licensed veterans
13 establishment. The license of each video gaming terminal shall
14 be maintained at the location where the video gaming terminal
15 is operated. Failure to do so is a petty offense with a fine
16 not to exceed \$100. Any licensed establishment, licensed truck
17 stop establishment, licensed fraternal establishment, or
18 licensed veterans establishment used for the conduct of
19 gambling games in violation of this Act shall be considered a
20 gambling place in violation of Section 28-3 of the Criminal
21 Code of 2012. Every gambling device found in a licensed
22 establishment, licensed truck stop establishment, licensed
23 fraternal establishment, or licensed veterans establishment

1 operating gambling games in violation of this Act shall be
2 subject to seizure, confiscation, and destruction as provided
3 in Section 28-5 of the Criminal Code of 2012. Any license
4 issued under the Liquor Control Act of 1934 to any owner or
5 operator of a licensed establishment, licensed truck stop
6 establishment, licensed fraternal establishment, or licensed
7 veterans establishment that operates or permits the operation
8 of a video gaming terminal within its establishment in
9 violation of this Act shall be immediately revoked. No person
10 may own, operate, have in his or her possession or custody or
11 under his or her control, or permit to be kept in any place
12 under his or her possession or control, any device that awards
13 credits and contains a circuit, meter, or switch capable of
14 removing and recording the removal of credits when the award of
15 credits is dependent upon chance.

16 ~~Nothing in this Section shall be deemed to prohibit the use~~
17 ~~of a game device only if the game device is used in an activity~~
18 ~~that is not gambling under subsection (b) of Section 28-1 of~~
19 ~~the Criminal Code of 2012.~~

20 A violation of this Section is a Class 4 felony. All
21 devices that are owned, operated, or possessed in violation of
22 this Section are hereby declared to be public nuisances and
23 shall be subject to seizure, confiscation, and destruction as
24 provided in Section 28-5 of the Criminal Code of 2012.

25 The provisions of this Section do not apply to devices or
26 electronic video game terminals licensed pursuant to this Act.

1 A video gaming terminal operated for amusement only and bearing
2 a valid amusement tax sticker shall not be subject to this
3 Section until 30 days after the Board establishes that the
4 central communications system is functional.

5 (b) (1) The odds of winning each video game shall be posted
6 on or near each video gaming terminal. The manner in which the
7 odds are calculated and how they are posted shall be determined
8 by the Board by rule.

9 (2) No video gaming terminal licensed under this Act may be
10 played except during the legal hours of operation allowed for
11 the consumption of alcoholic beverages at the licensed
12 establishment, licensed fraternal establishment, or licensed
13 veterans establishment. A licensed establishment, licensed
14 fraternal establishment, or licensed veterans establishment
15 that violates this subsection is subject to termination of its
16 license by the Board.

17 (Source: P.A. 97-1150, eff. 1-25-13; 98-111, eff. 1-1-14.)

18 Section 10. The Criminal Code of 2012 is amended by
19 changing Sections 28-1 and 28-2 as follows:

20 (720 ILCS 5/28-1) (from Ch. 38, par. 28-1)

21 Sec. 28-1. Gambling.

22 (a) A person commits gambling when he or she:

23 (1) knowingly plays a game of chance or skill for money
24 or other thing of value, unless excepted in subsection (b)

1 of this Section;

2 (2) knowingly makes a wager upon the result of any
3 game, contest, or any political nomination, appointment or
4 election;

5 (3) knowingly operates, keeps, owns, uses, purchases,
6 exhibits, rents, sells, bargains for the sale or lease of,
7 manufactures or distributes any gambling device;

8 (4) contracts to have or give himself or herself or
9 another the option to buy or sell, or contracts to buy or
10 sell, at a future time, any grain or other commodity
11 whatsoever, or any stock or security of any company, where
12 it is at the time of making such contract intended by both
13 parties thereto that the contract to buy or sell, or the
14 option, whenever exercised, or the contract resulting
15 therefrom, shall be settled, not by the receipt or delivery
16 of such property, but by the payment only of differences in
17 prices thereof; however, the issuance, purchase, sale,
18 exercise, endorsement or guarantee, by or through a person
19 registered with the Secretary of State pursuant to Section
20 8 of the Illinois Securities Law of 1953, or by or through
21 a person exempt from such registration under said Section
22 8, of a put, call, or other option to buy or sell
23 securities which have been registered with the Secretary of
24 State or which are exempt from such registration under
25 Section 3 of the Illinois Securities Law of 1953 is not
26 gambling within the meaning of this paragraph (4);

1 (5) knowingly owns or possesses any book, instrument or
2 apparatus by means of which bets or wagers have been, or
3 are, recorded or registered, or knowingly possesses any
4 money which he has received in the course of a bet or
5 wager;

6 (6) knowingly sells pools upon the result of any game
7 or contest of skill or chance, political nomination,
8 appointment or election;

9 (7) knowingly sets up or promotes any lottery or sells,
10 offers to sell or transfers any ticket or share for any
11 lottery;

12 (8) knowingly sets up or promotes any policy game or
13 sells, offers to sell or knowingly possesses or transfers
14 any policy ticket, slip, record, document or other similar
15 device;

16 (9) knowingly drafts, prints or publishes any lottery
17 ticket or share, or any policy ticket, slip, record,
18 document or similar device, except for such activity
19 related to lotteries, bingo games and raffles authorized by
20 and conducted in accordance with the laws of Illinois or
21 any other state or foreign government;

22 (10) knowingly advertises any lottery or policy game,
23 except for such activity related to lotteries, bingo games
24 and raffles authorized by and conducted in accordance with
25 the laws of Illinois or any other state;

26 (11) knowingly transmits information as to wagers,

1 betting odds, or changes in betting odds by telephone,
2 telegraph, radio, semaphore or similar means; or knowingly
3 installs or maintains equipment for the transmission or
4 receipt of such information; except that nothing in this
5 subdivision (11) prohibits transmission or receipt of such
6 information for use in news reporting of sporting events or
7 contests; or

8 (12) knowingly establishes, maintains, or operates an
9 Internet site that permits a person to play a game of
10 chance or skill for money or other thing of value by means
11 of the Internet or to make a wager upon the result of any
12 game, contest, political nomination, appointment, or
13 election by means of the Internet. This item (12) does not
14 apply to activities referenced in items (6) and (6.1) of
15 subsection (b) of this Section.

16 (b) Participants in any of the following activities shall
17 not be convicted of gambling:

18 (1) Agreements to compensate for loss caused by the
19 happening of chance including without limitation contracts
20 of indemnity or guaranty and life or health or accident
21 insurance.

22 (2) Offers of prizes, award or compensation to the
23 actual contestants in any bona fide contest for the
24 determination of skill, speed, strength or endurance or to
25 the owners of animals or vehicles entered in such contest.

26 (3) Pari-mutuel betting as authorized by the law of

1 this State.

2 (4) Manufacture of gambling devices, including the
3 acquisition of essential parts therefor and the assembly
4 thereof, for transportation in interstate or foreign
5 commerce to any place outside this State when such
6 transportation is not prohibited by any applicable Federal
7 law; or the manufacture, distribution, or possession of
8 video gaming terminals, as defined in the Video Gaming Act,
9 by manufacturers, distributors, and terminal operators
10 licensed to do so under the Video Gaming Act.

11 (5) The game commonly known as "bingo", when conducted
12 in accordance with the Bingo License and Tax Act.

13 (6) Lotteries when conducted by the State of Illinois
14 in accordance with the Illinois Lottery Law. This exemption
15 includes any activity conducted by the Department of
16 Revenue to sell lottery tickets pursuant to the provisions
17 of the Illinois Lottery Law and its rules.

18 (6.1) The purchase of lottery tickets through the
19 Internet for a lottery conducted by the State of Illinois
20 under the program established in Section 7.12 of the
21 Illinois Lottery Law.

22 (7) Possession of an antique slot machine that is
23 neither used nor intended to be used in the operation or
24 promotion of any unlawful gambling activity or enterprise.
25 For the purpose of this subparagraph (b)(7), an antique
26 slot machine is one manufactured 25 years ago or earlier.

1 (8) Raffles and poker runs when conducted in accordance
2 with the Raffles and Poker Runs Act.

3 (9) Charitable games when conducted in accordance with
4 the Charitable Games Act.

5 (10) Pull tabs and jar games when conducted under the
6 Illinois Pull Tabs and Jar Games Act.

7 (11) Gambling games conducted on riverboats when
8 authorized by the Riverboat Gambling Act.

9 (12) Video gaming terminal games at a licensed
10 establishment, licensed truck stop establishment, licensed
11 fraternal establishment, or licensed veterans
12 establishment when conducted in accordance with the Video
13 Gaming Act.

14 (13) Games of skill or chance where money or other
15 things of value can be won but no payment or purchase is
16 required to participate, except where participation in
17 such game of skill or chance is accomplished using a
18 gambling device prohibited by Section 28-2(a)(iii).

19 (14) Savings promotion raffles authorized under
20 Section 5g of the Illinois Banking Act, Section 7008 of the
21 Savings Bank Act, Section 42.7 of the Illinois Credit Union
22 Act, Section 5136B of the National Bank Act (12 U.S.C.
23 25a), or Section 4 of the Home Owners' Loan Act (12 U.S.C.
24 1463).

25 (c) Sentence.

26 (1) Gambling is a Class A misdemeanor. A second or

1 subsequent conviction under subsections (a)(3) through
2 (a)(12), is a Class 4 felony.

3 (2) Notwithstanding subsection (c)(1), or anything
4 else contained in this Section to the contrary, a gambling
5 offense involving a device described in Section
6 28-2(a)(iii) is a Class 4 felony.

7 (d) Circumstantial evidence.

8 In prosecutions under this Section circumstantial evidence
9 shall have the same validity and weight as in any criminal
10 prosecution.

11 (Source: P.A. 98-644, eff. 6-10-14; 99-149, eff. 1-1-16.)

12 (720 ILCS 5/28-2) (from Ch. 38, par. 28-2)

13 Sec. 28-2. Definitions.

14 (a) A "gambling device" is : (i) any clock, tape machine,
15 slot machine or other machines or device for the reception of
16 money or other thing of value on chance or skill or upon the
17 action of which money or other thing of value is staked,
18 hazarded, bet, won or lost; (ii) ~~or~~ any mechanism, furniture,
19 fixture, equipment or other device designed primarily for use
20 in a gambling place; or (iii) any vending or other electronic
21 machine or device, including, without limitation, a machine or
22 device that awards credits and contains a circuit, meter, or
23 switch capable of removing and recording the removal of credits
24 that offers a person entry into any contest, competition,
25 sweepstakes, scheme, plan, or other selection process that

1 involves or is dependent upon an element of chance for which
2 the person may receive a gift, award, or other item or service
3 of value if that offer is incidental to or results from: (A)
4 the purchase of an item or service of value; or (B) the
5 purchase or gratuitous receipt of a coupon, voucher,
6 certificate, or other similar credit that can be redeemed for
7 or applied towards an item or service of value from such
8 machine or device or elsewhere. A "gambling device" does not
9 include:

10 (1) A coin-in-the-slot operated mechanical device
11 played for amusement which rewards the player with the
12 right to replay such mechanical device, which device is so
13 constructed or devised as to make such result of the
14 operation thereof depend in part upon the skill of the
15 player and which returns to the player thereof no money,
16 property or right to receive money or property.

17 (2) Except as otherwise provided in this subsection
18 (a), a vending machine ~~Vending machines~~ by which full and
19 adequate return is made for the money invested and in which
20 there is no element of chance or hazard.

21 (3) A crane game. For the purposes of this paragraph
22 (3), a "crane game" is an amusement device involving skill,
23 if it rewards the player exclusively with merchandise
24 contained within the amusement device proper and limited to
25 toys, novelties and prizes other than currency, each having
26 a wholesale value which is not more than \$25.

1 (4) A redemption machine. For the purposes of this
2 paragraph (4), a "redemption machine" is a single-player or
3 multi-player amusement device involving a game, the object
4 of which is throwing, rolling, bowling, shooting, placing,
5 or propelling a ball or other object that is either
6 physical or computer generated on a display or with lights
7 into, upon, or against a hole or other target that is
8 either physical or computer generated on a display or with
9 lights, or stopping, by physical, mechanical, or
10 electronic means, a moving object that is either physical
11 or computer generated on a display or with lights into,
12 upon, or against a hole or other target that is either
13 physical or computer generated on a display or with lights,
14 provided that all of the following conditions are met:

15 (A) The outcome of the game is predominantly
16 determined by the skill of the player.

17 (B) The award of the prize is based solely upon the
18 player's achieving the object of the game or otherwise
19 upon the player's score.

20 (C) Only merchandise prizes are awarded.

21 (D) The wholesale value of prizes awarded in lieu
22 of tickets or tokens for single play of the device does
23 not exceed \$25.

24 (E) The redemption value of tickets, tokens, and
25 other representations of value, which may be
26 accumulated by players to redeem prizes of greater

1 value, for a single play of the device does not exceed
2 \$25.

3 (5) Video gaming terminals at a licensed
4 establishment, licensed truck stop establishment, licensed
5 fraternal establishment, or licensed veterans
6 establishment licensed in accordance with the Video Gaming
7 Act.

8 (a-5) "Internet" means an interactive computer service or
9 system or an information service, system, or access software
10 provider that provides or enables computer access by multiple
11 users to a computer server, and includes, but is not limited
12 to, an information service, system, or access software provider
13 that provides access to a network system commonly known as the
14 Internet, or any comparable system or service and also
15 includes, but is not limited to, a World Wide Web page,
16 newsgroup, message board, mailing list, or chat area on any
17 interactive computer service or system or other online service.

18 (a-6) "Access" and "computer" have the meanings ascribed to
19 them in Section 16D-2 of this Code.

20 (b) A "lottery" is any scheme or procedure whereby one or
21 more prizes are distributed by chance among persons who have
22 paid or promised consideration for a chance to win such prizes,
23 whether such scheme or procedure is called a lottery, raffle,
24 gift, sale or some other name, excluding savings promotion
25 raffles authorized under Section 5g of the Illinois Banking
26 Act, Section 7008 of the Savings Bank Act, Section 42.7 of the

1 Illinois Credit Union Act, Section 5136B of the National Bank
2 Act (12 U.S.C. 25a), or Section 4 of the Home Owners' Loan Act
3 (12 U.S.C. 1463).

4 (c) A "policy game" is any scheme or procedure whereby a
5 person promises or guarantees by any instrument, bill,
6 certificate, writing, token or other device that any particular
7 number, character, ticket or certificate shall in the event of
8 any contingency in the nature of a lottery entitle the
9 purchaser or holder to receive money, property or evidence of
10 debt.

11 (d) It is the intent of Section 28-2(a)(iii) to prohibit
12 any mechanism that seeks to avoid being considered a gambling
13 device through the use of any subterfuge or pretense
14 whatsoever.

15 (Source: P.A. 98-31, eff. 6-24-13; 99-149, eff. 1-1-16.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.