



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5039

Introduced 2/18/2020, by Rep. Robert Rita

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.

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CORRECTIONAL
BUDGET AND
IMPACT 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 large truck stop establishment, licensed fraternal
13 establishment, or licensed veterans establishment. The license
14 of each video gaming terminal shall be maintained at the
15 location where the video gaming terminal is operated. Failure
16 to do so is a petty offense with a fine not to exceed \$100. Any
17 licensed establishment, licensed truck stop establishment,
18 licensed large truck stop establishment, licensed fraternal
19 establishment, or licensed veterans establishment used for the
20 conduct of gambling games in violation of this Act shall be
21 considered a gambling place in violation of Section 28-3 of the
22 Criminal Code of 2012. Every gambling device found in a
23 licensed establishment, licensed truck stop establishment,

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

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

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

1 The provisions of this Section do not apply to devices or
2 electronic video game terminals licensed pursuant to this Act.
3 A video gaming terminal operated for amusement only and bearing
4 a valid amusement tax sticker shall not be subject to this
5 Section until 30 days after the Board establishes that the
6 central communications system is functional.

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

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

19 (Source: P.A. 101-31, eff. 6-28-19.)

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

22 (720 ILCS 5/28-1) (from Ch. 38, par. 28-1)

23 Sec. 28-1. Gambling.

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

1 (1) knowingly plays a game of chance or skill for money
2 or other thing of value, unless excepted in subsection (b)
3 of this Section;

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

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

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

1 Section 3 of the Illinois Securities Law of 1953 is not
2 gambling within the meaning of this paragraph (4);

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

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

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

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

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

24 (10) knowingly advertises any lottery or policy game,
25 except for such activity related to lotteries, bingo games
26 and raffles authorized by and conducted in accordance with

1 the laws of Illinois or any other state;

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

10 (12) knowingly establishes, maintains, or operates an
11 Internet site that permits a person to play a game of
12 chance or skill for money or other thing of value by means
13 of the Internet or to make a wager upon the result of any
14 game, contest, political nomination, appointment, or
15 election by means of the Internet. This item (12) does not
16 apply to activities referenced in items (6), (6.1), (8),
17 ~~and~~ (8.1), and (15) of subsection (b) of this Section.

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

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

24 (2) Offers of prizes, award or compensation to the
25 actual contestants in any bona fide contest for the
26 determination of skill, speed, strength or endurance or to

1 the owners of animals or vehicles entered in such contest.

2 (3) Pari-mutuel betting as authorized by the law of
3 this State.

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

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

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

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

24 (7) Possession of an antique slot machine that is
25 neither used nor intended to be used in the operation or
26 promotion of any unlawful gambling activity or enterprise.

1 For the purpose of this subparagraph (b)(7), an antique
2 slot machine is one manufactured 25 years ago or earlier.

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

5 (8.1) The purchase of raffle chances for a raffle
6 conducted in accordance with the Raffles and Poker Runs
7 Act.

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

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

12 (11) Gambling games when authorized by the Illinois
13 Gambling Act.

14 (12) Video gaming terminal games at a licensed
15 establishment, licensed truck stop establishment, licensed
16 large truck stop establishment, licensed fraternal
17 establishment, or licensed veterans establishment when
18 conducted in accordance with the Video Gaming Act.

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

24 (14) Savings promotion raffles authorized under
25 Section 5g of the Illinois Banking Act, Section 7008 of the
26 Savings Bank Act, Section 42.7 of the Illinois Credit Union

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

4 (15) Sports wagering when conducted in accordance with
5 the Sports Wagering Act.

6 (c) Sentence.

7 (1) Gambling is a Class A misdemeanor. A second or
8 subsequent conviction under subsections (a)(3) through
9 (a)(12), is a Class 4 felony.

10 (2) Notwithstanding subsection (c)(1), or anything
11 else contained in this Section to the contrary, a gambling
12 offense involving a device described in Section
13 28-2(a)(iii) is a Class 4 felony.

14 (d) Circumstantial evidence.

15 In prosecutions under this Section circumstantial evidence
16 shall have the same validity and weight as in any criminal
17 prosecution.

18 (Source: P.A. 101-31, Article 25, Section 25-915, eff. 6-28-19;
19 101-31, Article 35, Section 35-80, eff. 6-28-19; 101-109, eff.
20 7-19-19; revised 8-6-19.)

21 (720 ILCS 5/28-2) (from Ch. 38, par. 28-2)

22 Sec. 28-2. Definitions.

23 (a) A "gambling device" is: (i) any clock, tape machine,
24 slot machine or other machines or device for the reception of
25 money or other thing of value on chance or skill or upon the

1 action of which money or other thing of value is staked,
2 hazarded, bet, won, or lost; (ii) ~~or~~ any mechanism, furniture,
3 fixture, equipment, or other device designed primarily for use
4 in a gambling place; or (iii) any vending or other electronic
5 machine or device, including, without limitation, a machine or
6 device that awards credits and contains a circuit, meter, or
7 switch capable of removing and recording the removal of credits
8 that offers a person entry into any contest, competition,
9 sweepstakes, scheme, plan, or other selection process that
10 involves or is dependent upon an element of chance for which
11 the person may receive a gift, award, or other item or service
12 of value if that offer is incidental to or results from: (A)
13 the purchase of an item or service of value; or (B) the
14 purchase or gratuitous receipt of a coupon, voucher,
15 certificate, or other similar credit that can be redeemed for
16 or applied towards an item or service of value from such
17 machine or device or elsewhere. A "gambling device" does not
18 include:

19 (1) A coin-in-the-slot operated mechanical device
20 played for amusement which rewards the player with the
21 right to replay such mechanical device, which device is so
22 constructed or devised as to make such result of the
23 operation thereof depend in part upon the skill of the
24 player and which returns to the player thereof no money,
25 property, or right to receive money or property.

26 (2) Except as otherwise provided in this subsection

1 (a), a vending machine ~~Vending machines~~ by which full and
2 adequate return is made for the money invested and in which
3 there is no element of chance or hazard.

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

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

24 (A) The outcome of the game is predominantly
25 determined by the skill of the player.

26 (B) The award of the prize is based solely upon the

1 player's achieving the object of the game or otherwise
2 upon the player's score.

3 (C) Only merchandise prizes are awarded.

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

7 (E) The redemption value of tickets, tokens, and
8 other representations of value, which may be
9 accumulated by players to redeem prizes of greater
10 value, for a single play of the device does not exceed
11 \$25.

12 (5) Video gaming terminals at a licensed
13 establishment, licensed truck stop establishment, licensed
14 large truck stop establishment, licensed fraternal
15 establishment, or licensed veterans establishment licensed
16 in accordance with the Video Gaming Act.

17 (a-5) "Internet" means an interactive computer service or
18 system or an information service, system, or access software
19 provider that provides or enables computer access by multiple
20 users to a computer server, and includes, but is not limited
21 to, an information service, system, or access software provider
22 that provides access to a network system commonly known as the
23 Internet, or any comparable system or service and also
24 includes, but is not limited to, a World Wide Web page,
25 newsgroup, message board, mailing list, or chat area on any
26 interactive computer service or system or other online service.

1 (a-6) "Access" has the meaning ascribed to the term in
2 Section 17-55.

3 (a-7) "Computer" has the meaning ascribed to the term in
4 Section 17-0.5.

5 (b) A "lottery" is any scheme or procedure whereby one or
6 more prizes are distributed by chance among persons who have
7 paid or promised consideration for a chance to win such prizes,
8 whether such scheme or procedure is called a lottery, raffle,
9 gift, sale, or some other name, excluding savings promotion
10 raffles authorized under Section 5g of the Illinois Banking
11 Act, Section 7008 of the Savings Bank Act, Section 42.7 of the
12 Illinois Credit Union Act, Section 5136B of the National Bank
13 Act (12 U.S.C. 25a), or Section 4 of the Home Owners' Loan Act
14 (12 U.S.C. 1463).

15 (c) A "policy game" is any scheme or procedure whereby a
16 person promises or guarantees by any instrument, bill,
17 certificate, writing, token, or other device that any
18 particular number, character, ticket, or certificate shall in
19 the event of any contingency in the nature of a lottery entitle
20 the purchaser or holder to receive money, property, or evidence
21 of debt.

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

26 (Source: P.A. 101-31, eff. 6-28-19; 101-87, eff. 1-1-20;

1 revised 8-6-19.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.