

# HB5063



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5063

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

#### SYNOPSIS AS INTRODUCED:

230 ILCS 40/5  
230 ILCS 40/25

Amends the Video Gaming Act. Removes references to inter-track wagering location licensees from the definition of "licensed establishment". Removes the restriction that an establishment authorized to conduct video gaming under the Act that is located within 1,000 feet of an organization licensee is ineligible to operate a video gaming terminal.

LRB101 20638 SMS 70288 b

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 Sections 5 and 25 as follows:

6 (230 ILCS 40/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Board" means the Illinois Gaming Board.

9 "Credit" means one, 5, 10, or 25 cents either won or  
10 purchased by a player.

11 "Distributor" means an individual, partnership,  
12 corporation, or limited liability company licensed under this  
13 Act to buy, sell, lease, or distribute video gaming terminals  
14 or major components or parts of video gaming terminals to or  
15 from terminal operators.

16 "Electronic card" means a card purchased from a licensed  
17 establishment, licensed fraternal establishment, licensed  
18 veterans establishment, licensed truck stop establishment, or  
19 licensed large truck stop establishment for use in that  
20 establishment as a substitute for cash in the conduct of gaming  
21 on a video gaming terminal.

22 "Electronic voucher" means a voucher printed by an  
23 electronic video game machine that is redeemable in the

1 licensed establishment for which it was issued.

2 "In-location bonus jackpot" means one or more video gaming  
3 terminals at a single licensed establishment that allows for  
4 wagers placed on such video gaming terminals to contribute to a  
5 cumulative maximum jackpot of up to \$10,000.

6 "Terminal operator" means an individual, partnership,  
7 corporation, or limited liability company that is licensed  
8 under this Act and that owns, services, and maintains video  
9 gaming terminals for placement in licensed establishments,  
10 licensed truck stop establishments, licensed large truck stop  
11 establishments, licensed fraternal establishments, or licensed  
12 veterans establishments.

13 "Licensed technician" means an individual who is licensed  
14 under this Act to repair, service, and maintain video gaming  
15 terminals.

16 "Licensed terminal handler" means a person, including but  
17 not limited to an employee or independent contractor working  
18 for a manufacturer, distributor, supplier, technician, or  
19 terminal operator, who is licensed under this Act to possess or  
20 control a video gaming terminal or to have access to the inner  
21 workings of a video gaming terminal. A licensed terminal  
22 handler does not include an individual, partnership,  
23 corporation, or limited liability company defined as a  
24 manufacturer, distributor, supplier, technician, or terminal  
25 operator under this Act.

26 "Manufacturer" means an individual, partnership,

1 corporation, or limited liability company that is licensed  
2 under this Act and that manufactures or assembles video gaming  
3 terminals.

4 "Supplier" means an individual, partnership, corporation,  
5 or limited liability company that is licensed under this Act to  
6 supply major components or parts to video gaming terminals to  
7 licensed terminal operators.

8 "Net terminal income" means money put into a video gaming  
9 terminal minus credits paid out to players.

10 "Video gaming terminal" means any electronic video game  
11 machine that, upon insertion of cash, electronic cards or  
12 vouchers, or any combination thereof, is available to play or  
13 simulate the play of a video game, including but not limited to  
14 video poker, line up, and blackjack, as authorized by the Board  
15 utilizing a video display and microprocessors in which the  
16 player may receive free games or credits that can be redeemed  
17 for cash. The term does not include a machine that directly  
18 dispenses coins, cash, or tokens or is for amusement purposes  
19 only.

20 "Licensed establishment" means any licensed retail  
21 establishment where alcoholic liquor is drawn, poured, mixed,  
22 or otherwise served for consumption on the premises, whether  
23 the establishment operates on a nonprofit or for-profit basis.

24 ~~"Licensed establishment" includes any such establishment that~~  
25 ~~has a contractual relationship with an inter-track wagering~~  
26 ~~location licensee licensed under the Illinois Horse Racing Act~~

1 ~~of 1975, provided any contractual relationship shall not~~  
2 ~~include any transfer or offer of revenue from the operation of~~  
3 ~~video gaming under this Act to any licensee licensed under the~~  
4 ~~Illinois Horse Racing Act of 1975. Provided, however, that the~~  
5 ~~licensed establishment that has such a contractual~~  
6 ~~relationship with an inter track wagering location licensee~~  
7 ~~may not, itself, be (i) an inter track wagering location~~  
8 ~~licensee, (ii) the corporate parent or subsidiary of any~~  
9 ~~licensee licensed under the Illinois Horse Racing Act of 1975,~~  
10 ~~or (iii) the corporate subsidiary of a corporation that is also~~  
11 ~~the corporate parent or subsidiary of any licensee licensed~~  
12 ~~under the Illinois Horse Racing Act of 1975. "Licensed~~  
13 ~~establishment" does not include a facility operated by an~~  
14 ~~organization licensee or an inter-track wagering licensee, ~~or~~~~  
15 ~~an inter track wagering location licensee licensed under the~~  
16 ~~Illinois Horse Racing Act of 1975 or a riverboat licensed under~~  
17 ~~the Illinois Gambling Act, except as provided in this~~  
18 ~~paragraph. The changes made to this definition by Public Act~~  
19 ~~98-587 are declarative of existing law.~~

20 "Licensed fraternal establishment" means the location  
21 where a qualified fraternal organization that derives its  
22 charter from a national fraternal organization regularly  
23 meets.

24 "Licensed veterans establishment" means the location where  
25 a qualified veterans organization that derives its charter from  
26 a national veterans organization regularly meets.

1 "Licensed truck stop establishment" means a facility (i)  
2 that is at least a 3-acre facility with a convenience store,  
3 (ii) with separate diesel islands for fueling commercial motor  
4 vehicles, (iii) that sells at retail more than 10,000 gallons  
5 of diesel or biodiesel fuel per month, and (iv) with parking  
6 spaces for commercial motor vehicles. "Commercial motor  
7 vehicles" has the same meaning as defined in Section 18b-101 of  
8 the Illinois Vehicle Code. The requirement of item (iii) of  
9 this paragraph may be met by showing that estimated future  
10 sales or past sales average at least 10,000 gallons per month.

11 "Licensed large truck stop establishment" means a facility  
12 located within 3 road miles from a freeway interchange, as  
13 measured in accordance with the Department of Transportation's  
14 rules regarding the criteria for the installation of business  
15 signs: (i) that is at least a 3-acre facility with a  
16 convenience store, (ii) with separate diesel islands for  
17 fueling commercial motor vehicles, (iii) that sells at retail  
18 more than 50,000 gallons of diesel or biodiesel fuel per month,  
19 and (iv) with parking spaces for commercial motor vehicles.  
20 "Commercial motor vehicles" has the same meaning as defined in  
21 Section 18b-101 of the Illinois Vehicle Code. The requirement  
22 of item (iii) of this paragraph may be met by showing that  
23 estimated future sales or past sales average at least 50,000  
24 gallons per month.

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

1 (230 ILCS 40/25)

2 Sec. 25. Restriction of licensees.

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

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

15 (c) Terminal operator. A person may not own, maintain, or  
16 place a video gaming terminal unless he has a valid terminal  
17 operator's license issued under this Act. A terminal operator  
18 may only place video gaming terminals for use in Illinois in  
19 licensed establishments, licensed truck stop establishments,  
20 licensed large truck stop establishments, licensed fraternal  
21 establishments, and licensed veterans establishments. No  
22 terminal operator may give anything of value, including but not  
23 limited to a loan or financing arrangement, to a licensed  
24 establishment, licensed truck stop establishment, licensed  
25 large truck stop establishment, licensed fraternal  
26 establishment, or licensed veterans establishment as any

1 incentive or inducement to locate video terminals in that  
2 establishment. Of the after-tax profits from a video gaming  
3 terminal, 50% shall be paid to the terminal operator and 50%  
4 shall be paid to the licensed establishment, licensed truck  
5 stop establishment, licensed large truck stop establishment,  
6 licensed fraternal establishment, or licensed veterans  
7 establishment, notwithstanding any agreement to the contrary.  
8 A video terminal operator that violates one or more  
9 requirements of this subsection is guilty of a Class 4 felony  
10 and is subject to termination of his or her license by the  
11 Board.

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

17 (d-5) Licensed terminal handler. No person, including, but  
18 not limited to, an employee or independent contractor working  
19 for a manufacturer, distributor, supplier, technician, or  
20 terminal operator licensed pursuant to this Act, shall have  
21 possession or control of a video gaming terminal, or access to  
22 the inner workings of a video gaming terminal, unless that  
23 person possesses a valid terminal handler's license issued  
24 under this Act.

25 (e) Licensed establishment. No video gaming terminal may be  
26 placed in any licensed establishment, licensed veterans

1 establishment, licensed truck stop establishment, licensed  
2 large truck stop establishment, or licensed fraternal  
3 establishment unless the owner or agent of the owner of the  
4 licensed establishment, licensed veterans establishment,  
5 licensed truck stop establishment, licensed large truck stop  
6 establishment, or licensed fraternal establishment has entered  
7 into a written use agreement with the terminal operator for  
8 placement of the terminals. A copy of the use agreement shall  
9 be on file in the terminal operator's place of business and  
10 available for inspection by individuals authorized by the  
11 Board. A licensed establishment, licensed truck stop  
12 establishment, licensed veterans establishment, or licensed  
13 fraternal establishment may operate up to 6 video gaming  
14 terminals on its premises at any time. A licensed large truck  
15 stop establishment may operate up to 10 video gaming terminals  
16 on its premises at any time.

17 (f) (Blank).

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

22 (A) When, with respect to a sole proprietorship, an  
23 individual or his or her spouse owns, operates, manages, or  
24 conducts, directly or indirectly, the organization,  
25 association, or business, or any part thereof; or

26 (B) When, with respect to a partnership, the individual

1 or his or her spouse shares in any of the profits, or  
2 potential profits, of the partnership activities; or

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

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

14 (E) When an individual or his or her spouse furnishes  
15 5% or more of the capital, whether in cash, goods, or  
16 services, for the operation of any business, association,  
17 or organization during any calendar year; or

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

23 For purposes of this subsection (g), "individual" includes  
24 all individuals or their spouses whose combined interest would  
25 qualify as a substantial interest under this subsection (g) and  
26 whose activities with respect to an organization, association,

1 or business are so closely aligned or coordinated as to  
2 constitute the activities of a single entity.

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

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

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

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

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

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

26 (3) negatively impact the purposes of the Video Gaming

1 Act.

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

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

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