



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB3940

Introduced 10/29/2019, by Rep. Tim Butler - Keith R. Wheeler - Kelly M. Cassidy, Dave Severin, Terri Bryant, et al.

#### 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.

LRB101 15117 RLC 64241 b

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.