



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3169

Introduced 2/19/2021, by Rep. Robert Rita

SYNOPSIS AS INTRODUCED:

230 ILCS 40/5
230 ILCS 40/45
230 ILCS 40/60
230 ILCS 40/65

Amends the Video Gaming Act. Provides that a video gaming terminal is not an amusement for purposes of the Illinois Municipal Code and is a gambling device as defined under federal law. Provides that imposing fees for establishments authorized to conduct video gaming, terminal operators, and video gaming terminal players is an exclusive power and function of the State and that a home rule municipality unit may not impose fees for establishments authorized to conduct video gaming, terminal operators, and video gaming terminal players. Adds that the providing and operating of video gaming terminals in accordance with the Act is an occupation not subject to tax by any home rule unit of local government. Prohibits a home rule municipality from imposing a fee for the operation of a video gaming terminal in excess of \$250 per year, unless a home rule municipality imposed a fee in excess of \$250 a year on or before January 1, 2020 (in which case the fee may not be increased).

LRB102 16987 SMS 22407 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

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, 45, 60, and 65 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
21 gaming 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
5 a 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
20 or control a video gaming terminal or to have access to the
21 inner 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
6 to supply major components or parts to video gaming terminals
7 to 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
15 Board utilizing a video display and microprocessors in which
16 the player may receive free games or credits that can be
17 redeemed for cash. The term does not include a machine that
18 directly dispenses coins, cash, or tokens or is for amusement
19 purposes only. "Video gaming terminal" is not an amusement for
20 purposes of Section 11-42-5 of the Illinois Municipal Code.
21 "Video gaming terminal" is a gambling device as defined under
22 15 U.S.C. 1171.

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

1 "Licensed establishment" includes any such establishment that
2 has a contractual relationship with an inter-track wagering
3 location licensee licensed under the Illinois Horse Racing Act
4 of 1975, provided any contractual relationship shall not
5 include any transfer or offer of revenue from the operation of
6 video gaming under this Act to any licensee licensed under the
7 Illinois Horse Racing Act of 1975. Provided, however, that the
8 licensed establishment that has such a contractual
9 relationship with an inter-track wagering location licensee
10 may not, itself, be (i) an inter-track wagering location
11 licensee, (ii) the corporate parent or subsidiary of any
12 licensee licensed under the Illinois Horse Racing Act of 1975,
13 or (iii) the corporate subsidiary of a corporation that is
14 also the corporate parent or subsidiary of any licensee
15 licensed under the Illinois Horse Racing Act of 1975.

16 "Licensed establishment" does not include a facility operated
17 by an organization licensee, an inter-track wagering licensee,
18 or an inter-track wagering location licensee licensed under
19 the Illinois Horse Racing Act of 1975 or a riverboat licensed
20 under the Illinois Gambling Act, except as provided in this
21 paragraph. The changes made to this definition by Public Act
22 98-587 are declarative of existing law.

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

1 "Licensed veterans establishment" means the location where
2 a qualified veterans organization that derives its charter
3 from a national veterans organization regularly meets.

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

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

1 least 50,000 gallons per month.

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

3 (230 ILCS 40/45)

4 Sec. 45. Issuance of license.

5 (a) The burden is upon each applicant to demonstrate his
6 suitability for licensure. Each video gaming terminal
7 manufacturer, distributor, supplier, operator, handler,
8 licensed establishment, licensed truck stop establishment,
9 licensed large truck stop establishment, licensed fraternal
10 establishment, and licensed veterans establishment shall be
11 licensed by the Board. The Board may issue or deny a license
12 under this Act to any person pursuant to the same criteria set
13 forth in Section 9 of the Illinois Gambling Act.

14 (a-5) The Board shall not grant a license to a person who
15 has facilitated, enabled, or participated in the use of
16 coin-operated devices for gambling purposes or who is under
17 the significant influence or control of such a person. For the
18 purposes of this Act, "facilitated, enabled, or participated
19 in the use of coin-operated amusement devices for gambling
20 purposes" means that the person has been convicted of any
21 violation of Article 28 of the Criminal Code of 1961 or the
22 Criminal Code of 2012. If there is pending legal action
23 against a person for any such violation, then the Board shall
24 delay the licensure of that person until the legal action is
25 resolved.

1 (b) Each person seeking and possessing a license as a
2 video gaming terminal manufacturer, distributor, supplier,
3 operator, handler, licensed establishment, licensed truck stop
4 establishment, licensed large truck stop establishment,
5 licensed fraternal establishment, or licensed veterans
6 establishment shall submit to a background investigation
7 conducted by the Board with the assistance of the State Police
8 or other law enforcement. To the extent that the corporate
9 structure of the applicant allows, the background
10 investigation shall include any or all of the following as the
11 Board deems appropriate or as provided by rule for each
12 category of licensure: (i) each beneficiary of a trust, (ii)
13 each partner of a partnership, (iii) each member of a limited
14 liability company, (iv) each director and officer of a
15 publicly or non-publicly held corporation, (v) each
16 stockholder of a non-publicly held corporation, (vi) each
17 stockholder of 5% or more of a publicly held corporation, or
18 (vii) each stockholder of 5% or more in a parent or subsidiary
19 corporation.

20 (c) Each person seeking and possessing a license as a
21 video gaming terminal manufacturer, distributor, supplier,
22 operator, handler, licensed establishment, licensed truck stop
23 establishment, licensed large truck stop establishment,
24 licensed fraternal establishment, or licensed veterans
25 establishment shall disclose the identity of every person,
26 association, trust, corporation, or limited liability company

1 having a greater than 1% direct or indirect pecuniary interest
2 in the video gaming terminal operation for which the license
3 is sought. If the disclosed entity is a trust, the application
4 shall disclose the names and addresses of the beneficiaries;
5 if a corporation, the names and addresses of all stockholders
6 and directors; if a limited liability company, the names and
7 addresses of all members; or if a partnership, the names and
8 addresses of all partners, both general and limited.

9 (d) No person may be licensed as a video gaming terminal
10 manufacturer, distributor, supplier, operator, handler,
11 licensed establishment, licensed truck stop establishment,
12 licensed large truck stop establishment, licensed fraternal
13 establishment, or licensed veterans establishment if that
14 person has been found by the Board to:

15 (1) have a background, including a criminal record,
16 reputation, habits, social or business associations, or
17 prior activities that pose a threat to the public
18 interests of the State or to the security and integrity of
19 video gaming;

20 (2) create or enhance the dangers of unsuitable,
21 unfair, or illegal practices, methods, and activities in
22 the conduct of video gaming; or

23 (3) present questionable business practices and
24 financial arrangements incidental to the conduct of video
25 gaming activities.

26 (e) Any applicant for any license under this Act has the

1 burden of proving his or her qualifications to the
 2 satisfaction of the Board. The Board may adopt rules to
 3 establish additional qualifications and requirements to
 4 preserve the integrity and security of video gaming in this
 5 State.

6 (f) A non-refundable application fee shall be paid at the
 7 time an application for a license is filed with the Board in
 8 the following amounts:

- 9 (1) Manufacturer \$5,000
- 10 (2) Distributor..... \$5,000
- 11 (3) Terminal operator \$5,000
- 12 (4) Supplier \$2,500
- 13 (5) Technician \$100
- 14 (6) Terminal Handler \$100
- 15 (7) Licensed establishment, licensed truck stop
 16 establishment, licensed large truck stop establishment,
 17 licensed fraternal establishment, or licensed
 18 veterans establishment \$100

19 (g) The Board shall establish an annual fee for each
 20 license not to exceed the following:

- 21 (1) Manufacturer \$10,000
- 22 (2) Distributor..... \$10,000
- 23 (3) Terminal operator \$5,000
- 24 (4) Supplier \$2,000
- 25 (5) Technician \$100
- 26 (6) Licensed establishment, licensed truck stop

1 establishment, licensed large truck stop establishment,
 2 licensed fraternal establishment, or licensed
 3 veterans establishment \$100

4 (7) Video gaming terminal \$100

5 (8) Terminal Handler \$100

6 (h) A terminal operator and a licensed establishment,
 7 licensed truck stop establishment, licensed large truck stop
 8 establishment, licensed fraternal establishment, or licensed
 9 veterans establishment shall equally split the fees specified
 10 in item (7) of subsection (g).

11 (i) Imposing fees for licensed establishments, licensed
 12 truck stop establishments, licensed large truck stop
 13 establishments, licensed fraternal establishments, licensed
 14 veterans establishments, terminal operators, and video gaming
 15 terminal players is an exclusive power and function of the
 16 State. A home rule municipality unit may not impose fees for
 17 licensed establishments, licensed truck stop establishments,
 18 licensed large truck stop establishments, licensed fraternal
 19 establishments, licensed veterans establishments, terminal
 20 operators, and video gaming terminal players.

21 (Source: P.A. 100-1152, eff. 12-14-18; 101-31, eff. 6-28-19.)

22 (230 ILCS 40/60)

23 Sec. 60. Imposition and distribution of tax.

24 (a) A tax of 30% is imposed on net terminal income and
 25 shall be collected by the Board.

1 Of the tax collected under this subsection (a),
2 five-sixths shall be deposited into the Capital Projects Fund
3 and one-sixth shall be deposited into the Local Government
4 Video Gaming Distributive Fund.

5 (b) Beginning on July 1, 2019, an additional tax of 3% is
6 imposed on net terminal income and shall be collected by the
7 Board.

8 Beginning on July 1, 2020, an additional tax of 1% is
9 imposed on net terminal income and shall be collected by the
10 Board.

11 The tax collected under this subsection (b) shall be
12 deposited into the Capital Projects Fund.

13 (c) Revenues generated from the play of video gaming
14 terminals shall be deposited by the terminal operator, who is
15 responsible for tax payments, in a specially created, separate
16 bank account maintained by the video gaming terminal operator
17 to allow for electronic fund transfers of moneys for tax
18 payment.

19 (d) Each licensed establishment, licensed truck stop
20 establishment, licensed large truck stop establishment,
21 licensed fraternal establishment, and licensed veterans
22 establishment shall maintain an adequate video gaming fund,
23 with the amount to be determined by the Board.

24 (e) The State's percentage of net terminal income shall be
25 reported and remitted to the Board within 15 days after the
26 15th day of each month and within 15 days after the end of each

1 month by the video terminal operator. A video terminal
2 operator who falsely reports or fails to report the amount due
3 required by this Section is guilty of a Class 4 felony and is
4 subject to termination of his or her license by the Board. Each
5 video terminal operator shall keep a record of net terminal
6 income in such form as the Board may require. All payments not
7 remitted when due shall be paid together with a penalty
8 assessment on the unpaid balance at a rate of 1.5% per month.

9 (f) The providing and operating of video gaming terminals
10 in accordance with this Act is an occupation not subject to tax
11 by any home rule unit. This subsection (f) is a limitation,
12 pursuant to subsection (g) of Section 6 of Article VII of the
13 Illinois Constitution, on the power of home rule units to tax.

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

15 (230 ILCS 40/65)

16 Sec. 65. Fees. Except as provided in this Section, a
17 non-home rule unit of government may not impose any fee for the
18 operation of a video gaming terminal in excess of \$25 per year.
19 The City of Rockford may not impose any fee for the operation
20 of a video gaming terminal in excess of \$250 per year.

21 Except as provided in this Section, a home rule
22 municipality may not impose any fee for the operation of a
23 video gaming terminal in excess of \$250 per year; however, a
24 home rule municipality unit imposing a fee for the operation
25 of a video gaming terminal in excess of \$250 on or before

1 January 1, 2020 may retain its fee structure in place before
2 January 1, 2020 but may not increase fees beyond the limit
3 provided in this Section.

4 A home rule municipality unit may not impose a fee for the
5 operation of a video gaming terminal in a manner inconsistent
6 with this Section. This Section is a limitation under
7 subsection (i) of Section 6 of Article VII of the Illinois
8 Constitution on the concurrent exercise by home rule units of
9 powers and functions exercised by the State.

10 (Source: P.A. 101-337, eff. 1-1-20.)