



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1400

Introduced 2/20/2015, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

720 ILCS 5/28-1
720 ILCS 5/28-2

from Ch. 38, par. 28-1
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, points, or replays and contains a circuit, meter, or switch capable of removing and recording the removal of credits, points, or replays 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. Makes other changes.

LRB099 07125 MLM 27210 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Sections 28-1 and 28-2 as follows:

6 (720 ILCS 5/28-1) (from Ch. 38, par. 28-1)

7 Sec. 28-1. Gambling.

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

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

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

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

18 (4) contracts to have or give himself or herself or
19 another the option to buy or sell, or contracts to buy or
20 sell, at a future time, any grain or other commodity
21 whatsoever, or any stock or security of any company, where
22 it is at the time of making such contract intended by both
23 parties thereto that the contract to buy or sell, or the

1 option, whenever exercised, or the contract resulting
2 therefrom, shall be settled, not by the receipt or delivery
3 of such property, but by the payment only of differences in
4 prices thereof; however, the issuance, purchase, sale,
5 exercise, endorsement or guarantee, by or through a person
6 registered with the Secretary of State pursuant to Section
7 8 of the Illinois Securities Law of 1953, or by or through
8 a person exempt from such registration under said Section
9 8, of a put, call, or other option to buy or sell
10 securities which have been registered with the Secretary of
11 State or which are exempt from such registration under
12 Section 3 of the Illinois Securities Law of 1953 is not
13 gambling within the meaning of this paragraph (4);

14 (5) knowingly owns or possesses any book, instrument or
15 apparatus by means of which bets or wagers have been, or
16 are, recorded or registered, or knowingly possesses any
17 money which he has received in the course of a bet or
18 wager;

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

22 (7) knowingly sets up or promotes any lottery or sells,
23 offers to sell or transfers any ticket or share for any
24 lottery;

25 (8) knowingly sets up or promotes any policy game or
26 sells, offers to sell or knowingly possesses or transfers

1 any policy ticket, slip, record, document or other similar
2 device;

3 (9) knowingly drafts, prints or publishes any lottery
4 ticket or share, or any policy ticket, slip, record,
5 document or similar device, except for such activity
6 related to lotteries, bingo games and raffles authorized by
7 and conducted in accordance with the laws of Illinois or
8 any other state or foreign government;

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

13 (11) knowingly transmits information as to wagers,
14 betting odds, or changes in betting odds by telephone,
15 telegraph, radio, semaphore or similar means; or knowingly
16 installs or maintains equipment for the transmission or
17 receipt of such information; except that nothing in this
18 subdivision (11) prohibits transmission or receipt of such
19 information for use in news reporting of sporting events or
20 contests; or

21 (12) knowingly establishes, maintains, or operates an
22 Internet site that permits a person to play a game of
23 chance or skill for money or other thing of value by means
24 of the Internet or to make a wager upon the result of any
25 game, contest, political nomination, appointment, or
26 election by means of the Internet. This item (12) does not

1 apply to activities referenced in items (6) and (6.1) of
2 subsection (b) of this Section.

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

5 (1) Agreements to compensate for loss caused by the
6 happening of chance including without limitation contracts
7 of indemnity or guaranty and life or health or accident
8 insurance.

9 (2) Offers of prizes, award or compensation to the
10 actual contestants in any bona fide contest for the
11 determination of skill, speed, strength or endurance or to
12 the owners of animals or vehicles entered in such contest.

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

15 (4) Manufacture of gambling devices, including the
16 acquisition of essential parts therefor and the assembly
17 thereof, for transportation in interstate or foreign
18 commerce to any place outside this State when such
19 transportation is not prohibited by any applicable Federal
20 law; or the manufacture, distribution, or possession of
21 video gaming terminals, as defined in the Video Gaming Act,
22 by manufacturers, distributors, and terminal operators
23 licensed to do so under the Video Gaming Act.

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

26 (6) Lotteries when conducted by the State of Illinois

1 in accordance with the Illinois Lottery Law. This exemption
2 includes any activity conducted by the Department of
3 Revenue to sell lottery tickets pursuant to the provisions
4 of the Illinois Lottery Law and its rules.

5 (6.1) The purchase of lottery tickets through the
6 Internet for a lottery conducted by the State of Illinois
7 under the program established in Section 7.12 of the
8 Illinois Lottery Law.

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

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

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

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

20 (11) Gambling games conducted on riverboats when
21 authorized by the Riverboat Gambling Act.

22 (12) Video gaming terminal games at a licensed
23 establishment, licensed truck stop establishment, licensed
24 fraternal establishment, or licensed veterans
25 establishment when conducted in accordance with the Video
26 Gaming Act.

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

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. 97-1108, eff. 1-1-13; 98-644, eff. 6-10-14.)

19 (720 ILCS 5/28-2) (from Ch. 38, par. 28-2)

20 Sec. 28-2. Definitions.

21 (a) A "gambling device" is: (i) any clock, tape machine,
22 slot machine or other machines or device for the reception of
23 money or other thing of value on chance or skill or upon the
24 action of which money or other thing of value is staked,
25 hazarded, bet, won or lost; (ii) ~~or~~ any mechanism, furniture,

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

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

24 (2) Except as otherwise provided in this subsection
25 (a), a vending machine ~~Vending machines~~ by which full and
26 adequate return is made for the money invested and in which

1 there is no element of chance or hazard.

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

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

22 (A) The outcome of the game is predominantly
23 determined by the skill of the player.

24 (B) The award of the prize is based solely upon the
25 player's achieving the object of the game or otherwise
26 upon the player's score.

1 (C) Only merchandise prizes are awarded.

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

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

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

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

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

1 (b) A "lottery" is any scheme or procedure whereby one or
2 more prizes are distributed by chance among persons who have
3 paid or promised consideration for a chance to win such prizes,
4 whether such scheme or procedure is called a lottery, raffle,
5 gift, sale or some other name.

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

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

17 (Source: P.A. 97-1126, eff. 1-1-13; 98-31, eff. 6-24-13.)