



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4171

by Rep. Sheri Jesiel

SYNOPSIS AS INTRODUCED:

230 ILCS 40/25
230 ILCS 40/28 new
230 ILCS 40/60
230 ILCS 40/65

Amends the Video Gaming Act. Provides that the corporate authorities of a municipality may pass an ordinance prohibiting gaming cafes within the corporate limits of the municipality. Provides that a county board may, for the unincorporated area of the county, pass an ordinance prohibiting gaming cafes within the unincorporated area of the county. Provides that a representative of a municipality or county may enter a licensed establishment, licensed veterans establishment, licensed truck stop establishment, or licensed fraternal establishment for the purpose of enforcing an ordinance prohibiting gaming cafes. Provides that a violation of an ordinance prohibiting gaming cafes is a business offense for which a court may impose injunctive relief, the fine specified in the ordinance, or both. Makes changes concerning fees a non-home rule unit that has adopted an ordinance prohibiting gaming cafes may impose. Defines "gaming cafe". Provides that a terminal operator and a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment may enter into an agreement under which the licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment receives more than 50% of the after-tax profits from a video gaming terminal and the terminal operator receives the remaining after-tax profits. Makes changes concerning the distribution of the net terminal income tax from video gaming terminals located in non-home rule units of local government.

LRB100 14825 MJP 29646 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 25, 60, and 65 and by adding Section 28 as follows:

6 (230 ILCS 40/25)

7 Sec. 25. Restriction of licensees.

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

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

20 (c) Terminal operator. A person may not own, maintain, or
21 place a video gaming terminal unless he has a valid terminal
22 operator's license issued under this Act. A terminal operator
23 may only place video gaming terminals for use in Illinois in

1 licensed establishments, licensed truck stop establishments,
2 licensed fraternal establishments, and licensed veterans
3 establishments. No terminal operator may give anything of
4 value, including but not limited to a loan or financing
5 arrangement, to a licensed establishment, licensed truck stop
6 establishment, licensed fraternal establishment, or licensed
7 veterans establishment as any incentive or inducement to locate
8 video terminals in that establishment. Of the after-tax profits
9 from a video gaming terminal, 50% shall be paid to the terminal
10 operator and 50% shall be paid to the licensed establishment,
11 licensed truck stop establishment, licensed fraternal
12 establishment, or licensed veterans establishment,
13 notwithstanding any agreement to the contrary, except as
14 otherwise provided in this subsection. A terminal operator and
15 a licensed establishment, licensed truck stop establishment,
16 licensed fraternal establishment, or licensed veterans
17 establishment may enter into an agreement under which the
18 licensed establishment, licensed truck stop establishment,
19 licensed fraternal establishment, or licensed veterans
20 establishment receives more than 50% of the after-tax profits
21 from a video gaming terminal and the terminal operator receives
22 the remaining after-tax profits. A video terminal operator that
23 violates one or more requirements of this subsection is guilty
24 of a Class 4 felony and is subject to termination of his or her
25 license by the Board.

26 (d) Licensed technician. A person may not service,

1 maintain, or repair a video gaming terminal in this State
2 unless he or she (1) has a valid technician's license issued
3 under this Act, (2) is a terminal operator, or (3) is employed
4 by a terminal operator, distributor, or manufacturer.

5 (d-5) Licensed terminal handler. No person, including, but
6 not limited to, an employee or independent contractor working
7 for a manufacturer, distributor, supplier, technician, or
8 terminal operator licensed pursuant to this Act, shall have
9 possession or control of a video gaming terminal, or access to
10 the inner workings of a video gaming terminal, unless that
11 person possesses a valid terminal handler's license issued
12 under this Act.

13 (e) Licensed establishment. No video gaming terminal may be
14 placed in any licensed establishment, licensed veterans
15 establishment, licensed truck stop establishment, or licensed
16 fraternal establishment unless the owner or agent of the owner
17 of the licensed establishment, licensed veterans
18 establishment, licensed truck stop establishment, or licensed
19 fraternal establishment has entered into a written use
20 agreement with the terminal operator for placement of the
21 terminals. A copy of the use agreement shall be on file in the
22 terminal operator's place of business and available for
23 inspection by individuals authorized by the Board. A licensed
24 establishment, licensed truck stop establishment, licensed
25 veterans establishment, or licensed fraternal establishment
26 may operate up to 5 video gaming terminals on its premises at

1 any time.

2 (f) (Blank).

3 (g) Financial interest restrictions. As used in this Act,
4 "substantial interest" in a partnership, a corporation, an
5 organization, an association, a business, or a limited
6 liability company means:

7 (A) When, with respect to a sole proprietorship, an
8 individual or his or her spouse owns, operates, manages, or
9 conducts, directly or indirectly, the organization,
10 association, or business, or any part thereof; or

11 (B) When, with respect to a partnership, the individual
12 or his or her spouse shares in any of the profits, or
13 potential profits, of the partnership activities; or

14 (C) When, with respect to a corporation, an individual
15 or his or her spouse is an officer or director, or the
16 individual or his or her spouse is a holder, directly or
17 beneficially, of 5% or more of any class of stock of the
18 corporation; or

19 (D) When, with respect to an organization not covered
20 in (A), (B) or (C) above, an individual or his or her
21 spouse is an officer or manages the business affairs, or
22 the individual or his or her spouse is the owner of or
23 otherwise controls 10% or more of the assets of the
24 organization; or

25 (E) When an individual or his or her spouse furnishes
26 5% or more of the capital, whether in cash, goods, or

1 services, for the operation of any business, association,
2 or organization during any calendar year; or

3 (F) When, with respect to a limited liability company,
4 an individual or his or her spouse is a member, or the
5 individual or his or her spouse is a holder, directly or
6 beneficially, of 5% or more of the membership interest of
7 the limited liability company.

8 For purposes of this subsection (g), "individual" includes
9 all individuals or their spouses whose combined interest would
10 qualify as a substantial interest under this subsection (g) and
11 whose activities with respect to an organization, association,
12 or business are so closely aligned or coordinated as to
13 constitute the activities of a single entity.

14 (h) Location restriction. A licensed establishment,
15 licensed truck stop establishment, licensed fraternal
16 establishment, or licensed veterans establishment that is (i)
17 located within 1,000 feet of a facility operated by an
18 organization licensee licensed under the Illinois Horse Racing
19 Act of 1975 or the home dock of a riverboat licensed under the
20 Riverboat Gambling Act or (ii) located within 100 feet of a
21 school or a place of worship under the Religious Corporation
22 Act, is ineligible to operate a video gaming terminal. The
23 location restrictions in this subsection (h) do not apply if
24 (A) a facility operated by an organization licensee, a school,
25 or a place of worship moves to or is established within the
26 restricted area after a licensed establishment, licensed truck

1 stop establishment, licensed fraternal establishment, or
2 licensed veterans establishment becomes licensed under this
3 Act or (B) a school or place of worship moves to or is
4 established within the restricted area after a licensed
5 establishment, licensed truck stop establishment, licensed
6 fraternal establishment, or licensed veterans establishment
7 obtains its original liquor license. For the purpose of this
8 subsection, "school" means an elementary or secondary public
9 school, or an elementary or secondary private school registered
10 with or recognized by the State Board of Education.

11 Notwithstanding the provisions of this subsection (h), the
12 Board may waive the requirement that a licensed establishment,
13 licensed truck stop establishment, licensed fraternal
14 establishment, or licensed veterans establishment not be
15 located within 1,000 feet from a facility operated by an
16 organization licensee licensed under the Illinois Horse Racing
17 Act of 1975 or the home dock of a riverboat licensed under the
18 Riverboat Gambling Act. The Board shall not grant such waiver
19 if there is any common ownership or control, shared business
20 activity, or contractual arrangement of any type between the
21 establishment and the organization licensee or owners licensee
22 of a riverboat. The Board shall adopt rules to implement the
23 provisions of this paragraph.

24 (i) Undue economic concentration. In addition to
25 considering all other requirements under this Act, in deciding
26 whether to approve the operation of video gaming terminals by a

1 terminal operator in a location, the Board shall consider the
2 impact of any economic concentration of such operation of video
3 gaming terminals. The Board shall not allow a terminal operator
4 to operate video gaming terminals if the Board determines such
5 operation will result in undue economic concentration. For
6 purposes of this Section, "undue economic concentration" means
7 that a terminal operator would have such actual or potential
8 influence over video gaming terminals in Illinois as to:

9 (1) substantially impede or suppress competition among
10 terminal operators;

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

13 (3) negatively impact the purposes of the Video Gaming
14 Act.

15 The Board shall adopt rules concerning undue economic
16 concentration with respect to the operation of video gaming
17 terminals in Illinois. The rules shall include, but not be
18 limited to, (i) limitations on the number of video gaming
19 terminals operated by any terminal operator within a defined
20 geographic radius and (ii) guidelines on the discontinuation of
21 operation of any such video gaming terminals the Board
22 determines will cause undue economic concentration.

23 (j) The provisions of the Illinois Antitrust Act are fully
24 and equally applicable to the activities of any licensee under
25 this Act.

26 (Source: P.A. 97-333, eff. 8-12-11; 98-31, eff. 6-24-13; 98-77,

1 eff. 7-15-13; 98-112, eff. 7-26-13; 98-756, eff. 7-16-14.)

2 (230 ILCS 40/28 new)

3 Sec. 28. Prohibition of gaming cafes.

4 (a) As used in this Section, "gaming cafe" means a licensed
5 establishment, licensed veterans establishment, licensed truck
6 stop establishment, or licensed fraternal establishment that
7 meets all of the following criteria: (1) the establishment is
8 substantially oriented towards the availability of video
9 gaming to the public; (2) a majority of the staff is assigned
10 to monitor and operate video gaming activity; (3) the
11 establishment has no kitchen to prepare food for serving; (4)
12 video gaming is the establishment's largest source of revenue;
13 and (5) the establishment is marketed toward customers as a
14 place to engage in video gaming.

15 (b) The corporate authorities of a municipality may pass an
16 ordinance prohibiting gaming cafes within the corporate limits
17 of the municipality. A county board may, for the unincorporated
18 area of the county, pass an ordinance prohibiting gaming cafes
19 within the unincorporated area of the county.

20 (c) A representative of a municipality or county exercising
21 its rights under this Section may enter a licensed
22 establishment, licensed veterans establishment, licensed truck
23 stop establishment, or licensed fraternal establishment for
24 the purpose of enforcing an ordinance enacted under subsection
25 (b) of this Section.

1 (d) A violation of an ordinance enacted under subsection
2 (b) of this Section is a business offense for which a court may
3 impose injunctive relief, the fine specified in the ordinance,
4 or both.

5 (230 ILCS 40/60)

6 Sec. 60. Imposition and distribution of tax.

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

9 (b) Of the tax collected under this Section from a video
10 gaming terminal located in a home rule unit of local
11 government, five-sixths shall be deposited into the Capital
12 Projects Fund and one-sixth shall be deposited into the Local
13 Government Video Gaming Distributive Fund. Of the tax collected
14 under this Section from a video gaming terminal located in a
15 non-home rule unit of local government, two-thirds shall be
16 deposited into the Capital Projects Fund and one-third shall be
17 paid to the non-home rule unit of local government.

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

24 (d) Each licensed establishment, licensed truck stop
25 establishment, licensed fraternal establishment, and licensed

1 veterans establishment shall maintain an adequate video gaming
2 fund, with the amount to be determined by the Board.

3 (e) The State's percentage of net terminal income shall be
4 reported and remitted to the Board within 15 days after the
5 15th day of each month and within 15 days after the end of each
6 month by the video terminal operator. A video terminal operator
7 who falsely reports or fails to report the amount due required
8 by this Section is guilty of a Class 4 felony and is subject to
9 termination of his or her license by the Board. Each video
10 terminal operator shall keep a record of net terminal income in
11 such form as the Board may require. All payments not remitted
12 when due shall be paid together with a penalty assessment on
13 the unpaid balance at a rate of 1.5% per month.

14 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09.)

15 (230 ILCS 40/65)

16 Sec. 65. Fees. Except where a non-home rule unit has
17 adopted an ordinance under subsection (b) of Section 28, a ~~A~~
18 non-home rule unit of government may not impose any fee for the
19 operation of a video gaming terminal in excess of \$25 per year.

20 (Source: P.A. 96-34, eff. 7-13-09.)