



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5633

by Rep. Justin Slaughter

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
720 ILCS 5/28-5	from Ch. 38, par. 28-5

Amends the Video Gaming Act. Deletes language providing that nothing in a provision regarding the display of license, confiscation, and violation as a felony shall be deemed to prohibit the use of a game device only if the game device is used in an activity that is not gambling. Amends the Criminal Code of 2012. Provides that a person commits gambling when he or she knowingly establishes, maintains, or operates an Internet site that permits a person to play or offers a person entry by means of the Internet 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 of that offer that is incidental to or results from (i) the purchase of an item or service of value; or (ii) the purchase of a 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 the site. Provides that such gambling is a Class 4 felony. Changes the definition of "gambling device". Makes conforming changes. Effective immediately.

LRB101 20091 SMS 69624 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 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, 28-2, and 28-5 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; ~~or~~

18 (13) knowingly establishes, maintains, or operates an
19 Internet site that permits a person to play or offers a
20 person entry by means of the Internet into any contest,
21 competition, sweepstakes, scheme, plan, or other selection
22 process that involves or is dependent upon an element of
23 chance for which the person may receive a gift, award, or
24 other item or service of value of that offer that is
25 incidental to or results from (i) the purchase of an item
26 or service of value; or (ii) the purchase of a gratuitous

1 receipt of a coupon, voucher, certificate, or other similar
2 credit that can be redeemed for or applied towards an item
3 or service of value from the site.

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

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

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

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

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

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

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

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

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

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

17 (8.1) The purchase of raffle chances for a raffle
18 conducted in accordance with the Raffles and Poker Runs
19 Act.

20 (9) Charitable games when conducted in accordance with
21 the Charitable Games Act.

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

24 (11) Gambling games when authorized by the Illinois
25 Gambling Act.

26 (12) Video gaming terminal games at a licensed

1 establishment, licensed truck stop establishment, licensed
2 large truck stop establishment, licensed fraternal
3 establishment, or licensed veterans establishment when
4 conducted in accordance with the Video Gaming Act.

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

11 (14) Savings promotion raffles authorized under
12 Section 5g of the Illinois Banking Act, Section 7008 of the
13 Savings Bank Act, Section 42.7 of the Illinois Credit Union
14 Act, Section 5136B of the National Bank Act (12 U.S.C.
15 25a), or Section 4 of the Home Owners' Loan Act (12 U.S.C.
16 1463).

17 (15) Sports wagering when conducted in accordance with
18 the Sports Wagering Act.

19 (c) Sentence.

20 (1) Gambling is a Class A misdemeanor. A second or
21 subsequent conviction under paragraphs (3) through (13) of
22 subsection (a) ~~subsections (a)(3) through (a)(12)~~, is a
23 Class 4 felony.

24 (2) Notwithstanding paragraph (1) of this subsection
25 (c), a gambling offense involving a device described in
26 item (iii) of subsection (a) of Section 28-2 is a Class 4

1 felony.

2 (d) Circumstantial evidence.

3 In prosecutions under this Section circumstantial evidence
4 shall have the same validity and weight as in any criminal
5 prosecution.

6 (Source: P.A. 101-31, Article 25, Section 25-915, eff. 6-28-19;
7 101-31, Article 35, Section 35-80, eff. 6-28-19; 101-109, eff.
8 7-19-19; revised 8-6-19.)

9 (720 ILCS 5/28-2) (from Ch. 38, par. 28-2)

10 Sec. 28-2. Definitions.

11 (a) A "gambling device" is: (i) any clock, tape machine,
12 slot machine or other machines or device for the reception of
13 money or other thing of value on chance or skill or upon the
14 action of which money or other thing of value is staked,
15 hazarded, bet, won, or lost; (ii) ~~or~~ any mechanism, furniture,
16 fixture, equipment, or other device designed primarily for use
17 in a gambling place; or (iii) any vending or other electronic
18 machine or device, including, but not limited to, a machine or
19 device that awards credits and contains a circuit, meter, or
20 switch capable of removing and recording the removal of credits
21 that offers a person entry into any contest, competition,
22 sweepstakes, scheme, plan, or other selection process that
23 involves or is dependent upon an element of chance for which
24 the person may receive a gift, award, or other item or service
25 of value if that offer is incidental to or results from: (A)

1 the purchase of an item or service of value; or (B) the
2 purchase or gratuitous receipt of a coupon, voucher,
3 certificate, or other similar credit that can be redeemed for
4 or applied towards an item or service of value from such
5 machine or device or elsewhere. It is the intent of item (iii)
6 of this subsection to prohibit any mechanism that seeks to
7 avoid being considered a gambling device through the use of any
8 subterfuge or pretense whatsoever. A "gambling device" does not
9 include:

10 (1) A coin-in-the-slot operated mechanical device
11 played for amusement which rewards the player with the
12 right to replay such mechanical device, which device is so
13 constructed or devised as to make such result of the
14 operation thereof depend in part upon the skill of the
15 player and which returns to the player thereof no money,
16 property, or right to receive money or property.

17 (2) Except as otherwise provided in subsection (a), a
18 vending machine ~~Vending machines~~ by which full and adequate
19 return is made for the money invested and in which there is
20 no element of chance or hazard.

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

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

15 (A) The outcome of the game is predominantly
16 determined by the skill of the player.

17 (B) The award of the prize is based solely upon the
18 player's achieving the object of the game or otherwise
19 upon the player's score.

20 (C) Only merchandise prizes are awarded.

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

24 (E) The redemption value of tickets, tokens, and
25 other representations of value, which may be
26 accumulated by players to redeem prizes of greater

1 value, for a single play of the device does not exceed
2 \$25.

3 (5) Video gaming terminals at a licensed
4 establishment, licensed truck stop establishment, licensed
5 large truck stop establishment, licensed fraternal
6 establishment, or licensed veterans establishment licensed
7 in accordance with the Video Gaming Act.

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

18 (a-6) "Access" has the meaning ascribed to the term in
19 Section 17-55.

20 (a-7) "Computer" has the meaning ascribed to the term in
21 Section 17-0.5.

22 (b) A "lottery" is any scheme or procedure whereby one or
23 more prizes are distributed by chance among persons who have
24 paid or promised consideration for a chance to win such prizes,
25 whether such scheme or procedure is called a lottery, raffle,
26 gift, sale, or some other name, excluding savings promotion

1 raffles authorized under Section 5g of the Illinois Banking
2 Act, Section 7008 of the Savings Bank Act, Section 42.7 of the
3 Illinois Credit Union Act, Section 5136B of the National Bank
4 Act (12 U.S.C. 25a), or Section 4 of the Home Owners' Loan Act
5 (12 U.S.C. 1463).

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
9 particular number, character, ticket, or certificate shall in
10 the event of any contingency in the nature of a lottery entitle
11 the purchaser or holder to receive money, property, or evidence
12 of debt.

13 (Source: P.A. 101-31, eff. 6-28-19; 101-87, eff. 1-1-20;
14 revised 8-6-19.)

15 (720 ILCS 5/28-5) (from Ch. 38, par. 28-5)

16 Sec. 28-5. Seizure of gambling devices and gambling funds.

17 (a) Every device designed for gambling which is incapable
18 of lawful use or every device used unlawfully for gambling
19 shall be considered a "gambling device", and shall be subject
20 to seizure, confiscation and destruction by the Department of
21 State Police or by any municipal, or other local authority,
22 within whose jurisdiction the same may be found. As used in
23 this Section, a "gambling device" includes any slot machine,
24 and includes any machine or device constructed for the
25 reception of money or other thing of value and so constructed

1 as to return, or to cause someone to return, on chance to the
2 player thereof money, property or a right to receive money or
3 property, and a gambling device under item (iii) of subsection
4 (a) of Section 28-2. With the exception of any device designed
5 for gambling which is incapable of lawful use, no gambling
6 device shall be forfeited or destroyed unless an individual
7 with a property interest in said device knows of the unlawful
8 use of the device.

9 (b) Every gambling device shall be seized and forfeited to
10 the county wherein such seizure occurs. Any money or other
11 thing of value integrally related to acts of gambling shall be
12 seized and forfeited to the county wherein such seizure occurs.

13 (c) If, within 60 days after any seizure pursuant to
14 subparagraph (b) of this Section, a person having any property
15 interest in the seized property is charged with an offense, the
16 court which renders judgment upon such charge shall, within 30
17 days after such judgment, conduct a forfeiture hearing to
18 determine whether such property was a gambling device at the
19 time of seizure. Such hearing shall be commenced by a written
20 petition by the State, including material allegations of fact,
21 the name and address of every person determined by the State to
22 have any property interest in the seized property, a
23 representation that written notice of the date, time and place
24 of such hearing has been mailed to every such person by
25 certified mail at least 10 days before such date, and a request
26 for forfeiture. Every such person may appear as a party and

1 present evidence at such hearing. The quantum of proof required
2 shall be a preponderance of the evidence, and the burden of
3 proof shall be on the State. If the court determines that the
4 seized property was a gambling device at the time of seizure,
5 an order of forfeiture and disposition of the seized property
6 shall be entered: a gambling device shall be received by the
7 State's Attorney, who shall effect its destruction, except that
8 valuable parts thereof may be liquidated and the resultant
9 money shall be deposited in the general fund of the county
10 wherein such seizure occurred; money and other things of value
11 shall be received by the State's Attorney and, upon
12 liquidation, shall be deposited in the general fund of the
13 county wherein such seizure occurred. However, in the event
14 that a defendant raises the defense that the seized slot
15 machine is an antique slot machine described in subparagraph
16 (b) (7) of Section 28-1 of this Code and therefore he is exempt
17 from the charge of a gambling activity participant, the seized
18 antique slot machine shall not be destroyed or otherwise
19 altered until a final determination is made by the Court as to
20 whether it is such an antique slot machine. Upon a final
21 determination by the Court of this question in favor of the
22 defendant, such slot machine shall be immediately returned to
23 the defendant. Such order of forfeiture and disposition shall,
24 for the purposes of appeal, be a final order and judgment in a
25 civil proceeding.

26 (d) If a seizure pursuant to subparagraph (b) of this

1 Section is not followed by a charge pursuant to subparagraph
2 (c) of this Section, or if the prosecution of such charge is
3 permanently terminated or indefinitely discontinued without
4 any judgment of conviction or acquittal (1) the State's
5 Attorney shall commence an in rem proceeding for the forfeiture
6 and destruction of a gambling device, or for the forfeiture and
7 deposit in the general fund of the county of any seized money
8 or other things of value, or both, in the circuit court and (2)
9 any person having any property interest in such seized gambling
10 device, money or other thing of value may commence separate
11 civil proceedings in the manner provided by law.

12 (e) Any gambling device displayed for sale to a riverboat
13 gambling operation, casino gambling operation, or organization
14 gaming facility or used to train occupational licensees of a
15 riverboat gambling operation, casino gambling operation, or
16 organization gaming facility as authorized under the Illinois
17 Gambling Act is exempt from seizure under this Section.

18 (f) Any gambling equipment, devices, and supplies provided
19 by a licensed supplier in accordance with the Illinois Gambling
20 Act which are removed from a riverboat, casino, or organization
21 gaming facility for repair are exempt from seizure under this
22 Section.

23 (g) The following video gaming terminals are exempt from
24 seizure under this Section:

25 (1) Video gaming terminals for sale to a licensed
26 distributor or operator under the Video Gaming Act.

1 (2) Video gaming terminals used to train licensed
2 technicians or licensed terminal handlers.

3 (3) Video gaming terminals that are removed from a
4 licensed establishment, licensed truck stop establishment,
5 licensed large truck stop establishment, licensed
6 fraternal establishment, or licensed veterans
7 establishment for repair.

8 (h) Property seized or forfeited under this Section is
9 subject to reporting under the Seizure and Forfeiture Reporting
10 Act.

11 (i) Any sports lottery terminals provided by a central
12 system provider that are removed from a lottery retailer for
13 repair under the Sports Wagering Act are exempt from seizure
14 under this Section.

15 (Source: P.A. 100-512, eff. 7-1-18; 101-31, Article 25, Section
16 25-915, eff. 6-28-19; 101-31, Article 35, Section 35-80, eff.
17 6-28-19; revised 7-12-19.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.