



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

#### HB1794

Introduced 2/17/2021, by Rep. Robert Rita

#### 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.

LRB102 14118 SMS 19470 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  
22 the 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  
13 or 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  
16 circuit, meter, or switch capable of removing and recording  
17 the removal of credits when the award of credits is dependent  
18 upon chance.

19 ~~Nothing in this Section shall be deemed to prohibit the~~  
20 ~~use of a game device only if the game device is used in an~~  
21 ~~activity that is not gambling under subsection (b) of Section~~  
22 ~~28-1 of the Criminal Code of 2012.~~

23 A violation of this Section is a Class 4 felony. All  
24 devices that are owned, operated, or possessed in violation of  
25 this Section are hereby declared to be public nuisances and  
26 shall be subject to seizure, confiscation, and destruction as

1 provided in Section 28-5 of the Criminal Code of 2012.

2 The provisions of this Section do not apply to devices or  
3 electronic video game terminals licensed pursuant to this Act.  
4 A video gaming terminal operated for amusement only and  
5 bearing a valid amusement tax sticker shall not be subject to  
6 this Section until 30 days after the Board establishes that  
7 the central communications system is functional.

8 (b) (1) The odds of winning each video game shall be posted  
9 on or near each video gaming terminal. The manner in which the  
10 odds are calculated and how they are posted shall be  
11 determined by the Board by rule.

12 (2) No video gaming terminal licensed under this Act may  
13 be played except during the legal hours of operation allowed  
14 for the consumption of alcoholic beverages at the licensed  
15 establishment, licensed fraternal establishment, or licensed  
16 veterans establishment. A licensed establishment, licensed  
17 fraternal establishment, or licensed veterans establishment  
18 that violates this subsection is subject to termination of its  
19 license by the Board.

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

21 Section 10. The Criminal Code of 2012 is amended by  
22 changing Sections 28-1 and 28-2 as follows:

23 (720 ILCS 5/28-1) (from Ch. 38, par. 28-1)

24 Sec. 28-1. Gambling.

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

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

5 (2) knowingly makes a wager upon the result of any  
6 game, contest, or any political nomination, appointment or  
7 election;

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

11 (4) contracts to have or give himself or herself or  
12 another the option to buy or sell, or contracts to buy or  
13 sell, at a future time, any grain or other commodity  
14 whatsoever, or any stock or security of any company, where  
15 it is at the time of making such contract intended by both  
16 parties thereto that the contract to buy or sell, or the  
17 option, whenever exercised, or the contract resulting  
18 therefrom, shall be settled, not by the receipt or  
19 delivery of such property, but by the payment only of  
20 differences in prices thereof; however, the issuance,  
21 purchase, sale, exercise, endorsement or guarantee, by or  
22 through a person registered with the Secretary of State  
23 pursuant to Section 8 of the Illinois Securities Law of  
24 1953, or by or through a person exempt from such  
25 registration under said Section 8, of a put, call, or  
26 other option to buy or sell securities which have been

1 registered with the Secretary of State or which are exempt  
2 from such registration under Section 3 of the Illinois  
3 Securities Law of 1953 is not gambling within the meaning  
4 of this paragraph (4);

5 (5) knowingly owns or possesses any book, instrument  
6 or apparatus by means of which bets or wagers have been, or  
7 are, recorded or registered, or knowingly possesses any  
8 money which he has received in the course of a bet or  
9 wager;

10 (6) knowingly sells pools upon the result of any game  
11 or contest of skill or chance, political nomination,  
12 appointment or election;

13 (7) knowingly sets up or promotes any lottery or  
14 sells, offers to sell or transfers any ticket or share for  
15 any lottery;

16 (8) knowingly sets up or promotes any policy game or  
17 sells, offers to sell or knowingly possesses or transfers  
18 any policy ticket, slip, record, document or other similar  
19 device;

20 (9) knowingly drafts, prints or publishes any lottery  
21 ticket or share, or any policy ticket, slip, record,  
22 document or similar device, except for such activity  
23 related to lotteries, bingo games and raffles authorized  
24 by and conducted in accordance with the laws of Illinois  
25 or any other state or foreign government;

26 (10) knowingly advertises any lottery or policy game,

1           except for such activity related to lotteries, bingo games  
2           and raffles authorized by and conducted in accordance with  
3           the laws of Illinois or any other state;

4           (11) knowingly transmits information as to wagers,  
5           betting odds, or changes in betting odds by telephone,  
6           telegraph, radio, semaphore or similar means; or knowingly  
7           installs or maintains equipment for the transmission or  
8           receipt of such information; except that nothing in this  
9           subdivision (11) prohibits transmission or receipt of such  
10          information for use in news reporting of sporting events  
11          or contests; or

12          (12) knowingly establishes, maintains, or operates an  
13          Internet site that permits a person to play a game of  
14          chance or skill for money or other thing of value by means  
15          of the Internet or to make a wager upon the result of any  
16          game, contest, political nomination, appointment, or  
17          election by means of the Internet. This item (12) does not  
18          apply to activities referenced in items (6), (6.1), (8),  
19          ~~and~~ (8.1), and (15) of subsection (b) of this Section.

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

22                 (1) Agreements to compensate for loss caused by the  
23                 happening of chance including without limitation contracts  
24                 of indemnity or guaranty and life or health or accident  
25                 insurance.

26                 (2) Offers of prizes, award or compensation to the

1 actual contestants in any bona fide contest for the  
2 determination of skill, speed, strength or endurance or to  
3 the owners of animals or vehicles entered in such contest.

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

6 (4) Manufacture of gambling devices, including the  
7 acquisition of essential parts therefor and the assembly  
8 thereof, for transportation in interstate or foreign  
9 commerce to any place outside this State when such  
10 transportation is not prohibited by any applicable Federal  
11 law; or the manufacture, distribution, or possession of  
12 video gaming terminals, as defined in the Video Gaming  
13 Act, by manufacturers, distributors, and terminal  
14 operators licensed to do so under the Video Gaming Act.

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

17 (6) Lotteries when conducted by the State of Illinois  
18 in accordance with the Illinois Lottery Law. This  
19 exemption includes any activity conducted by the  
20 Department of Revenue to sell lottery tickets pursuant to  
21 the provisions of the Illinois Lottery Law and its rules.

22 (6.1) The purchase of lottery tickets through the  
23 Internet for a lottery conducted by the State of Illinois  
24 under the program established in Section 7.12 of the  
25 Illinois Lottery Law.

26 (7) Possession of an antique slot machine that is



1           neither used nor intended to be used in the operation or  
2           promotion of any unlawful gambling activity or enterprise.  
3           For the purpose of this subparagraph (b)(7), an antique  
4           slot machine is one manufactured 25 years ago or earlier.

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

7           (8.1) The purchase of raffle chances for a raffle  
8           conducted in accordance with the Raffles and Poker Runs  
9           Act.

10          (9) Charitable games when conducted in accordance with  
11          the Charitable Games Act.

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

14          (11) Gambling games when authorized by the Illinois  
15          Gambling Act.

16          (12) Video gaming terminal games at a licensed  
17          establishment, licensed truck stop establishment, licensed  
18          large truck stop establishment, licensed fraternal  
19          establishment, or licensed veterans establishment when  
20          conducted in accordance with the Video Gaming Act.

21          (13) Games of skill or chance where money or other  
22          things of value can be won but no payment or purchase is  
23          required to participate, except where participation in  
24          such game of skill or chance is accomplished using a  
25          gambling device prohibited by item (iii) of subsection (a)  
26          of Section 28-2.

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

7           (15) Sports wagering when conducted in accordance with  
8           the Sports Wagering Act.

9           (c) Sentence.

10          (1) Gambling is a Class A misdemeanor. A second or  
11          subsequent conviction under subsections (a)(3) through  
12          (a)(12), is a Class 4 felony.

13          (2) Notwithstanding paragraph (1) of subsection (c),  
14          or anything else contained in this Section to the  
15          contrary, a gambling offense involving a device described  
16          in item (iii) of subsection (a) of Section 28-2 is a Class  
17          4 felony.

18          (d) Circumstantial evidence.

19          In prosecutions under this Section circumstantial evidence  
20          shall have the same validity and weight as in any criminal  
21          prosecution.

22          (Source: P.A. 101-31, Article 25, Section 25-915, eff.  
23          6-28-19; 101-31, Article 35, Section 35-80, eff. 6-28-19;  
24          101-109, eff. 7-19-19; revised 8-6-19.)

25          (720 ILCS 5/28-2) (from Ch. 38, par. 28-2)

1           Sec. 28-2. Definitions.

2           (a) A "gambling device" is: (i) any clock, tape machine,  
3           slot machine or other machines or device for the reception of  
4           money or other thing of value on chance or skill or upon the  
5           action of which money or other thing of value is staked,  
6           hazarded, bet, won, or lost; (ii) ~~or~~ any mechanism, furniture,  
7           fixture, equipment, or other device designed primarily for use  
8           in a gambling place; or (iii) any vending or other electronic  
9           machine or device, including, without limitation, a machine or  
10           device that awards credits and contains a circuit, meter, or  
11           switch capable of removing and recording the removal of  
12           credits that offers a person entry into any contest,  
13           competition, sweepstakes, scheme, plan, or other selection  
14           process that involves or is dependent upon an element of  
15           chance for which the person may receive a gift, award, or other  
16           item or service of value if that offer is incidental to or  
17           results from: (A) the purchase of an item or service of value;  
18           or (B) the purchase or gratuitous receipt of a coupon,  
19           voucher, certificate, or other similar credit that can be  
20           redeemed for or applied towards an item or service of value  
21           from such machine or device or elsewhere. A "gambling device"  
22           does not include:

23           (1) A coin-in-the-slot operated mechanical device  
24           played for amusement which rewards the player with the  
25           right to replay such mechanical device, which device is so  
26           constructed or devised as to make such result of the

1 operation thereof depend in part upon the skill of the  
2 player and which returns to the player thereof no money,  
3 property, or right to receive money or property.

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

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

15 (4) A redemption machine. For the purposes of this  
16 paragraph (4), a "redemption machine" is a single-player  
17 or multi-player amusement device involving a game, the  
18 object of which is throwing, rolling, bowling, shooting,  
19 placing, or propelling a ball or other object that is  
20 either physical or computer generated on a display or with  
21 lights into, upon, or against a hole or other target that  
22 is either physical or computer generated on a display or  
23 with lights, or stopping, by physical, mechanical, or  
24 electronic means, a moving object that is either physical  
25 or computer generated on a display or with lights into,  
26 upon, or against a hole or other target that is either

1 physical or computer generated on a display or with  
2 lights, provided that all of the following conditions are  
3 met:

4 (A) The outcome of the game is predominantly  
5 determined by the skill of the player.

6 (B) The award of the prize is based solely upon the  
7 player's achieving the object of the game or otherwise  
8 upon the player's score.

9 (C) Only merchandise prizes are awarded.

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

13 (E) The redemption value of tickets, tokens, and  
14 other representations of value, which may be  
15 accumulated by players to redeem prizes of greater  
16 value, for a single play of the device does not exceed  
17 \$25.

18 (5) Video gaming terminals at a licensed  
19 establishment, licensed truck stop establishment, licensed  
20 large truck stop establishment, licensed fraternal  
21 establishment, or licensed veterans establishment licensed  
22 in accordance with the Video Gaming Act.

23 (a-5) "Internet" means an interactive computer service or  
24 system or an information service, system, or access software  
25 provider that provides or enables computer access by multiple  
26 users to a computer server, and includes, but is not limited

1 to, an information service, system, or access software  
2 provider that provides access to a network system commonly  
3 known as the Internet, or any comparable system or service and  
4 also includes, but is not limited to, a World Wide Web page,  
5 newsgroup, message board, mailing list, or chat area on any  
6 interactive computer service or system or other online  
7 service.

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

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

12 (b) A "lottery" is any scheme or procedure whereby one or  
13 more prizes are distributed by chance among persons who have  
14 paid or promised consideration for a chance to win such  
15 prizes, whether such scheme or procedure is called a lottery,  
16 raffle, gift, sale, or some other name, excluding savings  
17 promotion raffles authorized under Section 5g of the Illinois  
18 Banking Act, Section 7008 of the Savings Bank Act, Section  
19 42.7 of the Illinois Credit Union Act, Section 5136B of the  
20 National Bank Act (12 U.S.C. 25a), or Section 4 of the Home  
21 Owners' Loan Act (12 U.S.C. 1463).

22 (c) A "policy game" is any scheme or procedure whereby a  
23 person promises or guarantees by any instrument, bill,  
24 certificate, writing, token, or other device that any  
25 particular number, character, ticket, or certificate shall in  
26 the event of any contingency in the nature of a lottery entitle

1 the purchaser or holder to receive money, property, or  
2 evidence of debt.

3 (d) It is the intent of item (iii) of subsection (a) of  
4 Section 28-2 to prohibit any mechanism that seeks to avoid  
5 being considered a gambling device through the use of any  
6 subterfuge or pretense whatsoever.

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

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.